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AN ACT

RELATING TO HEALTH INSURANCE; PROVIDING COVERAGE FOR MENTAL  
HEALTH BENEFITS NOT COVERED BY INDIVIDUAL HEALTH INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-54-12 NMSA 1978 (being Laws  
1987, Chapter 154, Section 12, as amended by Laws 2005,  
Chapter 301, Section 6 and by Laws 2005, Chapter 305, Section  
6) is amended to read:

"59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

A. Except as provided in Subsection B of this  
section, a person is eligible for a pool policy only if on  
the effective date of coverage or renewal of coverage the  
person is a New Mexico resident, and:

(1) is not eligible as an insured or covered  
dependent for any health plan that provides coverage for  
comprehensive major medical or comprehensive physician and  
hospital services;

(2) is currently paying a rate for a health  
plan that is higher than one hundred twenty-five percent of  
the pool's standard rate;

(3) has a mental health diagnosis and has  
individual health insurance coverage that does not include  
coverage for mental health services;

(4) has been rejected for coverage for

1 comprehensive major medical or comprehensive physician and  
2 hospital services;

3 (5) is only eligible for a health plan with  
4 a rider, waiver or restrictive provision for that particular  
5 individual based on a specific condition;

6 (6) has a medical condition that is listed  
7 on the pool's prequalifying conditions;

8 (7) has as of the date the individual seeks  
9 coverage from the pool an aggregate of eighteen or more  
10 months of creditable coverage, the most recent of which was  
11 under a group health plan, governmental plan or church plan  
12 as defined in Subsections P, N and D, respectively, of  
13 Section 59A-23E-2 NMSA 1978, except, for the purposes of  
14 aggregating creditable coverage, a period of creditable  
15 coverage shall not be counted with respect to enrollment of  
16 an individual for coverage under the pool if, after that  
17 period and before the enrollment date, there was a  
18 sixty-three-day or longer period during all of which the  
19 individual was not covered under any creditable coverage; or

20 (8) is entitled to continuation coverage  
21 pursuant to Section 59A-23E-19 NMSA 1978.

22 B. Notwithstanding the provisions of Subsection A  
23 of this section:

24 (1) a person's eligibility for a policy  
25 issued under the Health Insurance Alliance Act shall not

1 preclude a person from remaining on or purchasing a pool  
2 policy; provided that a self-employed person who qualifies  
3 for an approved health plan under the Health Insurance  
4 Alliance Act by using a dependent as the second employee may  
5 choose a pool policy in lieu of the health plan under that  
6 act; and

7 (2) if a pool policyholder becomes eligible  
8 for any group health plan, the policyholder's pool coverage  
9 shall not be involuntarily terminated until any preexisting  
10 condition period imposed on the policyholder by the plan has  
11 been exhausted.

12 C. Coverage under a pool policy is in excess of  
13 and shall not duplicate coverage under any other form of  
14 health insurance.

15 D. A policyholder's newborn child or newly adopted  
16 child is automatically eligible for thirty-one consecutive  
17 calendar days of coverage for an additional premium.

18 E. Except for a person eligible as provided in  
19 Paragraph (7) of Subsection A of this section, a pool policy  
20 may contain provisions under which coverage is excluded  
21 during a six-month period following the effective date of  
22 coverage as to a given individual for preexisting conditions.

23 F. The preexisting condition exclusions described  
24 in Subsection E of this section shall be waived to the extent  
25 to which similar exclusions have been satisfied under any

1 prior health insurance coverage that was involuntarily  
2 terminated, if the application for pool coverage is made not  
3 later than thirty-one days following the involuntary  
4 termination. In that case, coverage in the pool shall be  
5 effective from the date on which the prior coverage was  
6 terminated. This subsection does not prohibit preexisting  
7 conditions coverage in a pool policy that is more favorable  
8 to the insured than that specified in this subsection.

9 G. An individual is not eligible for coverage by  
10 the pool if:

11 (1) except as provided in Subsection I of  
12 this section, the individual is, at the time of application,  
13 eligible for medicare or medicaid that would provide coverage  
14 for amounts in excess of limited policies such as dread  
15 disease, cancer policies or hospital indemnity policies;

16 (2) the individual has voluntarily  
17 terminated coverage by the pool within the past twelve months  
18 and did not have other continuous coverage during that time,  
19 except that this paragraph shall not apply to an applicant  
20 who is a federally defined eligible individual;

21 (3) the individual is an inmate of a public  
22 institution or is eligible for public programs for which  
23 medical care is provided;

24 (4) the individual is eligible for coverage  
25 under a group health plan;

1 (5) the individual has health insurance  
2 coverage as defined in Subsection R of Section 59A-23E-2 NMSA  
3 1978;

4 (6) the most recent coverages within the  
5 coverage period described in Paragraph (7) of Subsection A of  
6 this section were terminated as a result of nonpayment of  
7 premium or fraud; or

8 (7) the individual has been offered the  
9 option of continuation coverage under a federal COBRA  
10 continuation provision as defined in Subsection F of Section  
11 59A-23E-2 NMSA 1978 or under a similar state program and he  
12 has elected the coverage and did not exhaust the continuation  
13 coverage under the provision or program, provided, however,  
14 that an unemployed former employee who has not exhausted  
15 COBRA coverage shall be eligible.

16 H. Any person whose health insurance coverage from  
17 a qualified state health policy with similar coverage is  
18 terminated because of nonresidency in another state may apply  
19 for coverage under the pool. If the coverage is applied for  
20 within thirty-one days after that termination and if premiums  
21 are paid for the entire coverage period, the effective date  
22 of the coverage shall be the date of termination of the  
23 previous coverage.

24 I. The board may issue a pool policy for  
25 individuals who:

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(1) are enrolled in both Part A and Part B of medicare because of a disability; and

(2) except for the eligibility for medicare, would otherwise be eligible for coverage pursuant to the criteria of this section."