

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 779

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HEALTH CARE; CREATING THE HEALTH CARE PARTNERSHIP;
PROVIDING FOR DUTIES OF THE HEALTH CARE PARTNERSHIP; DIRECTING
AND AUTHORIZING THE DEVELOPMENT OF PARTNERSHIP BENEFIT PLANS;
PROVIDING FOR PARTICIPATING EMPLOYER PLANS AND PARTICIPATING
INSURANCE PLANS; PROVIDING FOR ELIGIBILITY AND BENEFITS;
PROVIDING FOR PROCEDURES TO ADDRESS ACCESS TO AND QUALITY AND
COST OF HEALTH CARE; ESTABLISHING AFFORDABILITY GUIDELINES;
MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Health Care Partnership Act".

Section 2. PURPOSE.--The purpose of the Health Care
Partnership Act is to:

A. create opportunities for all New Mexicans to

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1 obtain affordable health care coverage through a combination of
2 public and private options and financing;

3 B. determine and implement measures to control
4 escalating health care costs; and

5 C. improve access to and quality of health care for
6 all New Mexicans.

7 Section 3. DEFINITIONS.--As used in the Health Care
8 Partnership Act:

9 A. "affordability" means the designation of the
10 percentage or amount of income that a household should
11 reasonably be expected to devote to health care expenditures
12 while still having sufficient income to access other
13 necessities;

14 B. "health care services" means services rendered
15 by a licensed health care provider, including:

16 (1) the furnishing to any individual of
17 medical, behavioral health, dental, pharmaceutical or
18 optometric care;

19 (2) hospitalization or long-term care; and

20 (3) the furnishing to any person of services
21 to diagnose, prevent, alleviate, cure or heal human physical or
22 mental illness or injury;

23 C. "health coverage" means a system of financing
24 health care services; provided, however, that "health coverage"
25 does not include coverage issued pursuant to provisions of the

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1 Workers' Compensation Act or similar law, automobile medical
2 payment insurance or provisions by which benefits are payable
3 with or without regard to fault and are required by law to be
4 contained in any liability insurance policy;

5 D. "living in New Mexico" means physically present
6 in New Mexico for at least six months with an intention to
7 remain primarily in New Mexico and not to reside elsewhere
8 except for vacation or other brief visits; and

9 E. "partnership" means the health care partnership.

10 Section 4. HEALTH CARE PARTNERSHIP--CREATION.--

11 A. The "health care partnership" is created and
12 consists of such representatives from each of the following
13 agencies or committees as each may select and designate to
14 participate:

- 15 (1) the department of health;
16 (2) the human services department;
17 (3) the legislative finance committee;
18 (4) the New Mexico legislative council;
19 (5) the interim legislative committee charged
20 with review or oversight of health care issues; and
21 (6) the insurance division of the public
22 regulation commission.

23 B. The partnership shall meet at least once each
24 calendar quarter until September 1, 2010. The partnership
25 shall continue to meet as needed to carry out the provisions of

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1 the Health Care Partnership Act.

2 C. To the extent resources are available, the
3 partnership may request staff assistance from any state agency,
4 the legislative finance committee and the legislative council
5 service as appropriate to carry out the provisions of the
6 Health Care Partnership Act.

7 D. The partnership and any advisory groups that it
8 creates shall be dissolved and discontinue meeting effective
9 July 1, 2014.

10 Section 5. HEALTH CARE PARTNERSHIP--DUTIES.--The
11 partnership shall, pursuant to Section 7 of the Health Care
12 Partnership Act and after receiving input and recommendations
13 from the public and advisory groups, develop and present to the
14 governor and the legislature recommendations and proposed
15 action steps for legislative, regulatory, operational and
16 financial initiatives to increase access to and affordability
17 of health care for all people living in New Mexico. The
18 recommendations shall include:

19 A. a sustainable methodology and time frame for the
20 financing of a health care system that incorporates strategies
21 from the public and private sectors;

22 B. strategies for health coverage or insurance
23 reform that increase affordability, availability and
24 portability of health coverage and consideration of guaranteed
25 issue and community rating;

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1 C. structural reforms that would improve efficiency
2 in public health coverage programs, including the feasibility
3 of administrative consolidation of pools and joint purchasing
4 of necessary common administrative functions, durable medical
5 equipment, health care supplies and pharmaceuticals;

6 D. assessment of the impact of state or federal
7 laws and rules and any state or federal changes in the
8 structure of health coverage or policies;

9 E. statutory and regulatory initiatives necessary
10 to provide cost-effective health care services, including:

11 (1) access to information that would enable
12 licensed health care providers, consumers and purchasers to
13 evaluate cost data fairly, including contractual terms such as
14 reimbursement rates, provider charges and health benefit plans;
15 and

16 (2) a statewide uniform health care provider
17 credentialing process;

18 F. restructuring of the current health care
19 delivery system, including:

20 (1) developing evidence-based approaches to
21 providing acute medical care, behavioral health care, chronic
22 medical care and disease management, preventive care and
23 wellness, public health and patient education;

24 (2) developing a system that realigns provider
25 and insurer incentives, reduces duplication, enhances primary

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1 care and focuses on evidence-based long-term health
2 improvement; and

3 (3) providing for accountability by licensed
4 health care providers and health coverage plan incentives for
5 health outcomes;

6 G. strategies to reduce gender, racial and ethnic
7 health care disparities and to identify underserved
8 populations, taking into account the role of Native American
9 health care systems and financing; and

10 H. other recommendations and action steps deemed
11 necessary by the partnership to carry out the provisions of the
12 Health Care Partnership Act.

13 Section 6. PUBLIC INPUT AND ADVISORY GROUPS.--

14 A. The meetings of the partnership shall be
15 announced publicly and in a timely manner and shall be open to
16 the public. The partnership shall provide opportunities for
17 public input in at least five different geographic areas of the
18 state before formulating its recommendations and action steps.
19 A draft of the partnership's recommendations and action steps
20 shall be available to the public for at least thirty days
21 before being finalized for submission to the legislature and
22 the governor. At least one public meeting shall be held and
23 opportunity for written comment on draft recommendations and
24 action steps shall be provided by the partnership before the
25 recommendations and action steps are finalized for presentation

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1 to the legislature and the governor.

2 B. The partnership shall create advisory groups as
3 the partnership deems necessary to receive and consider advice
4 and reaction from consumers; advocates; licensed health care
5 providers; health insurers; payers, including employers and
6 federal and state agencies; Native American nations, tribes and
7 pueblos; and other interested parties. A person serving as a
8 member of an advisory group shall not be eligible for any
9 reimbursement by the partnership for expenses associated with
10 participation on these advisory groups unless specific funding
11 for this purpose is identified by the partnership. Each
12 advisory group shall be given a specific charge and a specific
13 date to end its work and deliver its advice, whether in writing
14 or through an oral report to the partnership.

15 Section 7. RECOMMENDATIONS--SUBMISSION--ACTION.--

16 A. The partnership shall present its final
17 recommendations and proposed action steps to the legislative
18 finance committee, to the interim legislative committee charged
19 with review or oversight of health care issues and to the
20 governor no later than September 1, 2010. The final report of
21 the partnership shall also summarize the advice of all advisory
22 groups and identify any differences between the final
23 recommendations of the partnership and the advice of the
24 advisory groups.

25 B. The legislative finance committee and the

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1 interim legislative committee charged with review or oversight
2 of health care issues shall hold a joint public meeting on the
3 partnership's recommendations and shall each separately take
4 action to approve or reject each recommendation and action step
5 no later than December 1, 2010. Any recommendation not
6 specifically approved shall be deemed to be specifically
7 rejected; provided, however, that the committees may propose
8 modifications of the partnership's recommendations and action
9 steps.

10 C. The governor shall hold a public meeting and
11 prepare a written response to the partnership's recommendations
12 and proposed action steps, no later than December 1, 2010,
13 setting forth the governor's agreement or disagreement with
14 each of the recommendations and action steps, including any
15 proposed modifications to the partnership's recommendations and
16 actions steps.

17 Section 8. PARTNERSHIP BENEFIT PLANS--DEVELOPMENT.--

18 A. The partnership shall develop benefit plan
19 options for essential health care services, expanded health
20 care services, consistent with national standards of care, and
21 long-term care services, consistent with national standards of
22 care, as well as options for patient cost-sharing, health care
23 provider selection opportunities, benefit variations and
24 variable annual limitations. The partnership benefit plans
25 shall take into consideration requirements for federal, state,

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1 tribal or local public health care services plans or programs;
2 the New Mexico Insurance Code; existing benefit plans pursuant
3 to the Group Benefits Act, the Retiree Health Care Act, the
4 Public School Insurance Authority Act, the Medical Insurance
5 Pool Act, the Health Insurance Alliance Act; and programs
6 administered by the human services department or a political
7 subdivision of the state.

8 B. Essential health care services include:

- 9 (1) preventive health care services;
10 (2) health care provider services;
11 (3) health facility inpatient and outpatient
12 services;
13 (4) laboratory tests and radiology procedures;
14 (5) hospice care;
15 (6) prescription drugs;
16 (7) inpatient and outpatient mental health
17 services; and
18 (8) alcohol and substance abuse services.

19 C. Expanded health care services include:

- 20 (1) preventive and prophylactic dental
21 services, including an annual dental examination and cleaning;
22 (2) vision examinations and appliances,
23 including medically necessary contact lenses;
24 (3) medical supplies, durable medical
25 equipment and selected assistive devices, including hearing and

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1 speech assistive devices;

2 (4) transportation necessary to obtain
3 essential or expanded services;

4 (5) experimental or investigational procedures
5 or treatments not otherwise covered in essential health care
6 services; and

7 (6) other health care services as the
8 partnership may determine appropriate.

9 D. Long-term services include:

10 (1) in-home, community-based and institutional
11 long-term services for any diagnosable conditions for which
12 such services are necessary; and

13 (2) habilitation and rehabilitation services
14 for any diagnosable conditions for which such services are
15 necessary.

16 Section 9. PARTNERSHIP BENEFIT PLANS--COSTS AND
17 FINANCING.--

18 A. The partnership shall project approximate costs
19 to the state and to individuals and groups for partnership
20 benefit plans based on expected take-up and utilization of
21 services and on availability of federal, state, local and other
22 funds that may be used to pay for the plans, taking into
23 account variations in the amount, duration and scope of the
24 plans and affordability criteria proposed pursuant to Section
25 10 of the Health Care Partnership Act.

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1 B. The partnership shall recommend financing
2 options for the plans, including subsidies to assist
3 individuals or families to purchase partnership benefit plans,
4 based on affordability guidelines. In recommending the
5 financing options, the partnership shall consider:

6 (1) available state and federal funding
7 options, including potential waivers available for certain
8 federal programs;

9 (2) current state law regarding assessments
10 and tax credits to contain costs through the Health Insurance
11 Alliance Act and the Medical Insurance Pool Act;

12 (3) limitations and exclusions that are
13 reasonable and necessary to ensure that partnership benefit
14 plans provide appropriate coverage while remaining actuarially
15 sound;

16 (4) the feasibility of requiring or
17 encouraging publicly funded health care agencies pursuant to
18 the Health Care Purchasing Act to use partnership benefit plans
19 as options for their eligible participants;

20 (5) an employer's contribution for all or part
21 of an employee's or a retiree's premium for a partnership
22 benefit plan, provided that a collective bargaining agreement
23 is not violated; and

24 (6) the impact on costs and financing if all
25 persons living in New Mexico were required to have health

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1 coverage.

2 C. The partnership shall prepare a report with the
3 specific options and recommendations for financing pursuant to
4 this section by September 1, 2010.

5 Section 10. AFFORDABILITY GUIDELINES.--

6 A. The partnership shall propose affordability
7 guidelines for individuals and families, including subsidies
8 that might be needed for various household sizes, income levels
9 and health needs for premiums for partnership benefit plans and
10 for patient cost-sharing and other out-of-pocket expenditures.
11 The partnership shall consider existing state and federal
12 requirements regarding allowed premiums and cost-sharing in
13 publicly financed programs. Changes in affordability
14 guidelines shall be proposed by the governor and set by the
15 legislature as part of the regular appropriation process,
16 provided that nothing in this section shall require the
17 governor to propose and the legislature to appropriate funds to
18 pay for subsidies identified by the affordability guidelines.

19 B. The partnership shall recommend affordability
20 guidelines for employers, based on employer type, size and
21 annual revenue.

22 Section 11. PARTNERSHIP BENEFIT PLANS--OFFERED.--

23 A. To the extent resources are available, the human
24 services department shall make available partnership benefit
25 plans to anyone living in New Mexico through persons authorized

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1 by the state pursuant to the New Mexico Insurance Code to issue
2 insurance or other health coverage; provided, however, that
3 nothing shall preclude the human services department from
4 directly paying for health care services or health coverage
5 pursuant to Chapter 27 NMSA 1978.

6 B. To the extent practicable and within available
7 resources, agents, brokers or solicitors authorized pursuant to
8 Chapter 59A, Article 12 NMSA 1978 or otherwise authorized by
9 the state to sell, solicit or negotiate insurance or other
10 health coverage may be used to offer the partnership benefit
11 plans to individuals and groups.

12 C. Premiums for partnership benefit plans shall be
13 paid for by individuals, employers and other groups interested
14 in participating in the health partnership plans. To the
15 extent possible, federal and other available resources shall be
16 used to provide subsidies for persons covered through the
17 plans, according to the affordability guidelines set by the
18 partnership pursuant to Section 10 of this act. Based on
19 available resources and on compliance with state and federal
20 laws, the human services department may develop eligibility
21 guidelines for individuals or households that may receive
22 subsidies.

23 D. An employer, group or other plan that provides
24 health care benefits for its employees after retirement,
25 including coverage for payment of medicare supplementary

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1 coverage, may agree to participate in the partnership benefit
2 plans. An employer that participates in a partnership benefit
3 plan shall contribute to the plan for the benefit of the
4 retiree, and the agreement shall ensure that the employer's,
5 group's or other plan's health benefit coverage for the retiree
6 shall be restored in the event of the retiree's ineligibility
7 for partnership benefit plan coverage.

8 Section 12. PARTNERSHIP BENEFIT PLAN--COVERAGE OF
9 NONRESIDENT STUDENTS.--An educational institution shall require
10 health coverage for its nonresident students and shall purchase
11 health coverage under one or more of the partnership benefit
12 plans or other health coverage options for its nonresident
13 students not otherwise covered, through fees assessed to those
14 students or a combination of fees and contributions by the
15 educational institutions.

16 Section 13. VOLUNTARY PURCHASE OF OTHER INSURANCE.--
17 Nothing in the Health Care Partnership Act shall be construed
18 to prohibit the voluntary purchase of insurance or health
19 coverage for health care services allowed to be purchased in
20 the state.

21 Section 14. INSURANCE RATES--SUPERINTENDENT OF
22 INSURANCE--DUTIES.--

23 A. The superintendent of insurance shall work
24 closely with the partnership to identify premium rates that may
25 be necessary for partnership benefit plans and premium rates

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1 associated with health coverage in workers' compensation and
2 automobile medical coverage. The superintendent of insurance
3 shall develop an estimate of expected reduction in workers'
4 compensation and automobile medical coverage rates based upon
5 assumptions of health care services or health coverage pursuant
6 to the Health Care Partnership Act.

7 B. If the superintendent of insurance finds that a
8 reduction pursuant to Subsection A of this section exists, the
9 superintendent shall ensure or recommend to the appropriate
10 authorities that workers' compensation and automobile insurance
11 premiums on insurance policies written in the state reflect a
12 lower, actuarially sound rate to account for medical payments
13 assumed by the partnership benefit plans.

14 Section 15. QUALITY OF CARE--HEALTH CARE PROVIDER AND
15 HEALTH FACILITIES--PRACTICE STANDARDS.--

16 A. Based on the recommendations of the partnership
17 and subject to available resources, the department of health
18 shall review and adopt quality improvement standards for health
19 care services provided in the state. These standards shall
20 consider evidence-based medicine, best practices, outcome
21 measurements, consumer education and patient safety.

22 B. By July 1, 2011, the department of health shall
23 propose a health care quality improvement program, based on the
24 recommendations of the partnership, to the governor and the
25 legislature with requirements for funding and time lines for

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1 implementation based on available resources. The quality
2 improvement program shall include an ongoing system for
3 monitoring patterns of practice.

4 C. The department of health, in consultation with
5 health care provider practice and licensure boards and provider
6 associations, shall review and adopt professional practice
7 guidelines developed by state and national medical and
8 specialty organizations, federal agencies for health care
9 policy and research and other organizations as it deems
10 necessary to promote the quality and cost-effectiveness of
11 health care services provided in the state.

12 D. In consultation with health care provider
13 practice and licensure boards and provider associations, the
14 department of health shall establish a system of peer education
15 for health care providers or health facilities determined to be
16 engaging in patterns of practice that do not meet the standards
17 pursuant to Subsection A of this section. The department may
18 refer health care providers continuing to engage in practices
19 that do not meet those standards to the appropriate licensing
20 or certifying board.

21 Section 16. ACCESS TO HEALTH CARE.--

22 A. By July 1, 2011, the department of health, in
23 consultation with health care provider certification and
24 licensing boards and provider associations, shall propose to
25 the governor and the legislature a program and time line for

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1 increasing the numbers and capacity of the health care provider
2 work force in the state, pursuant to the recommendations of the
3 partnership. The program shall include:

4 (1) standards for access to various types of
5 primary, specialty and emergency health care within identified
6 time frames and distances;

7 (2) standards for the reasonable availability
8 of primary and specialty health care providers in the various
9 regions of the state that are used for planning by the
10 interagency behavioral health purchasing collaborative; and

11 (3) methods and costs for achieving these
12 standards.

13 B. In developing these standards and programs, the
14 department shall consider the role of the Indian health service
15 and the role of traditional practices of healing among Native
16 American nations, tribes and pueblos in the state.

17 Section 17. APPROPRIATION.--Up to five hundred thousand
18 dollars (\$500,000) is appropriated from legislative cash
19 balances to the legislative council service for expenditure in
20 fiscal years 2010 and 2011 to support the activities of the
21 health care partnership and accomplish the purposes of this
22 act. Any unexpended or unencumbered balance remaining at the
23 end of fiscal year 2011 shall revert to legislative cash
24 balances.