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SENATE BILL 42

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Gerald Ortiz y Pino

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE  
AND THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; REQUIRING THE HUMAN SERVICES  
DEPARTMENT TO PROVIDE FOR CONTINUED MEDICAID ENROLLMENT FOR  
ELIGIBLE INCARCERATED INDIVIDUALS WHO WERE ENROLLED IN MEDICAID  
UPON INCARCERATION AND NEW ENROLLMENT IN MEDICAID FOR  
INDIVIDUALS RELEASED FROM INCARCERATION.

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

SECTION 1. [NEW MATERIAL] INCARCERATED INDIVIDUALS--  
MEDICAID ENROLLMENT--ENROLLMENT ASSISTANCE.--

A. The secretary of human services shall adopt and  
promulgate rules to provide that an incarcerated individual who  
was enrolled in medicaid until the date of incarceration shall  
remain enrolled in medicaid and shall not be terminated from  
enrollment in medicaid upon incarceration and that:

(1) during the time the incarcerated

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1 individual is incarcerated, reimbursement shall not be made for  
2 a claim submitted for payment on behalf of the incarcerated  
3 individual, except a claim for which federal medical assistance  
4 percentage reimbursement is available, including inpatient  
5 services furnished at a health care facility outside the  
6 premises of incarceration; and

7 (2) upon release from incarceration, the  
8 formerly incarcerated individual shall remain enrolled in  
9 medicaid until the individual is determined to be ineligible  
10 for medicaid as provided by federal law on grounds other than  
11 incarceration.

12 B. The secretary of human services shall adopt and  
13 promulgate rules to provide that an incarcerated individual who  
14 was not enrolled in medicaid upon the date that the individual  
15 became incarcerated shall be permitted to submit an application  
16 for medicaid enrollment during the incarcerated individual's  
17 period of incarceration. To execute the provisions of this  
18 subsection, the human services department shall create a  
19 process for assisting incarcerated individuals with applying to  
20 enroll in medicaid in a manner consistent with federal  
21 requirements. The human services department shall:

22 (1) ensure that every incarcerated individual  
23 is informed of the individual's right to apply to enroll in  
24 medicaid and, upon the individual's request, is provided with  
25 an application to enroll in medicaid;

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1 (2) provide assistance to incarcerated  
2 individuals who apply to enroll in medicaid and who request  
3 assistance. This assistance shall include:

4 (a) providing incarcerated individuals  
5 with application forms;

6 (b) obtaining medical information, proof  
7 of eligibility and other information required to support an  
8 application for enrollment in medicaid; and

9 (c) completing and submitting medicaid  
10 applications;

11 (3) provide assistance to incarcerated  
12 individuals in completing periodic verification of eligibility  
13 for enrollment in medicaid. This assistance shall include:

14 (a) providing incarcerated individuals  
15 with the forms necessary for eligibility verification;

16 (b) obtaining medical information, proof  
17 of eligibility and other information required to support a  
18 periodic verification of eligibility for enrollment in  
19 medicaid; and

20 (c) completing and submitting a periodic  
21 verification of eligibility for enrollment in medicaid;

22 (4) ensure that an incarcerated individual who  
23 wishes to receive an assessment of eligibility for enrollment  
24 in medicaid receives that assessment before the incarcerated  
25 individual is released from custody. This process shall be

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1 initiated:

2 (a) immediately after the release date  
3 becomes known to the incarceration facility when the  
4 incarcerated individual's period of incarceration is projected  
5 upon incarceration to be at least thirty days; or

6 (b) immediately upon incarceration when  
7 the incarcerated individual's period of incarceration is  
8 projected upon incarceration to be less than thirty days;

9 (5) ascertain upon the incarceration of an  
10 individual whether the incarcerated individual was enrolled in  
11 medicaid until the date of incarceration and, if so, assist  
12 that individual in notifying the human services department to  
13 ensure that the individual receives all correspondence that the  
14 human services department transmits to the incarcerated  
15 individual during the individual's incarceration; and

16 (6) ensure that any incarcerated individual  
17 assisted pursuant to this section receives any notification or  
18 correspondence that the human services department transmits to  
19 the incarcerated individual during the individual's  
20 incarceration.

21 C. The fact that an individual who submits an  
22 application for enrollment in medicaid is incarcerated shall  
23 not be grounds for the human services department to refuse to  
24 process an application for medicaid enrollment that the  
25 incarcerated individual submits in a manner otherwise in

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1 accordance with state law and the rules of the human services  
2 department.

3 D. The provisions of this section shall not be  
4 construed to abrogate:

5 (1) any deadline that governs the processing  
6 of applications for enrollment in medicaid pursuant to existing  
7 federal or state law; or

8 (2) requirements under federal or state law  
9 that the human services department be notified of changes in  
10 income or residency.

11 E. The secretary of human services shall  
12 collaborate and cooperate with the corrections department, the  
13 children, youth and families department and the administrators  
14 of each of the correctional facilities in the state to carry  
15 out the provisions of this act.

16 F. As used in this section:

17 (1) "incarcerated individual" means an  
18 individual, the legal guardian or conservator of an individual  
19 or, for an individual who is an unemancipated minor, the parent  
20 or guardian of the individual, who is confined in any of the  
21 following correctional facilities:

- 22 (a) a state correctional facility;  
23 (b) a privately operated correctional  
24 facility;  
25 (c) a county jail;

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1 (d) a municipal jail;  
2 (e) a privately operated jail;  
3 (f) a detention facility that is  
4 operated under the authority of the children, youth and  
5 families department and that holds the individual pending a  
6 court hearing; or

7 (g) a facility that is operated under  
8 the authority of the children, youth and families department  
9 and that provides for the care and rehabilitation of an  
10 individual who is under eighteen years of age and who has  
11 committed an act that would be designated as a crime under the  
12 law if committed by an individual who is eighteen years of age  
13 or older;

14 (2) "medicaid" means the joint federal-state  
15 health coverage program pursuant to Title 19 or Title 21 of the  
16 federal Social Security Act and rules promulgated pursuant to  
17 that act; and

18 (3) "unemancipated minor" means an individual  
19 who is under eighteen years of age and who:

20 (a) is not on active duty in the armed  
21 forces; and

22 (b) has not been declared by court order  
23 to be emancipated.