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AN ACT

RELATING TO PUBLIC HEALTH; ENACTING THE VACCINE PURCHASING ACT; ESTABLISHING A VACCINE PURCHASING PROGRAM; CREATING THE VACCINE PURCHASING FUND; REQUIRING REPORTING OF THE NUMBER OF INSURED CHILDREN; REQUIRING HEALTH INSURERS AND GROUP HEALTH PLANS TO REIMBURSE THE STATE FOR COSTS OF VACCINES PURCHASED BY THE STATE FOR INSURED CHILDREN; PROVIDING FOR PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

SECTION 1. SHORT TITLE.--This act may be cited as the "Vaccine Purchasing Act".

SECTION 2. DEFINITIONS.--As used in the Vaccine Purchasing Act:

A. "advisory committee on immunization practices" means the group of medical and public health experts that develops recommendations on how to use vaccines to control diseases in the United States, established under Section 222 of the federal Public Health Service Act;

B. "department" means the department of health;

C. "fund" means the vaccine purchasing fund;

D. "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care to employees or their dependents under the Employee Retirement Income Security Act of 1974 directly or through

1 insurance, reimbursement or other means;

2 E. "health insurance coverage" means benefits
3 consisting of medical care provided directly or through
4 insurance or reimbursement or other means under any hospital
5 or medical service policy or certificate, hospital or medical
6 service plan contract or health maintenance organization
7 contract offered by a health insurance issuer;

8 F. "health insurer" means any entity subject to
9 regulation by the office of superintendent of insurance that:

10 (1) provides or is authorized to provide
11 health insurance or health benefit plans;

12 (2) administers health insurance or health
13 benefit coverage; or

14 (3) otherwise provides a plan of health
15 insurance or health benefits;

16 G. "insured child" means a child under the age of
17 nineteen who is eligible to receive health insurance coverage
18 from a health insurer or medical care pursuant to a group
19 health plan;

20 H. "office of superintendent" means the office of
21 superintendent of insurance;

22 I. "policy" means any contract of health insurance
23 between a health insurer and the insured and all clauses,
24 riders, endorsements and parts thereof;

25 J. "provider" means an individual or organization

1 licensed, certified or otherwise authorized or permitted by
2 law to provide vaccinations to insured children; and

3 K. "vaccines for children program" means the
4 federally funded program that provides vaccines at no cost to
5 eligible children pursuant to Section 1928 of the federal
6 Social Security Act.

7 SECTION 3. STATEWIDE VACCINE PURCHASING PROGRAM.--

8 A. The department shall establish and administer a
9 statewide vaccine purchasing program to:

10 (1) expand access to childhood immunizations
11 recommended by the advisory committee on immunization
12 practices;

13 (2) maintain and improve immunization rates;

14 (3) facilitate the acquisition by providers
15 of vaccines for childhood immunizations recommended by the
16 advisory committee on immunization practices; and

17 (4) leverage public and private funding and
18 resources for the purchase, storage and distribution of
19 vaccines for childhood immunizations recommended by the
20 advisory committee on immunization practices.

21 B. The department shall:

22 (1) purchase vaccines for all children in
23 New Mexico, including children eligible for the vaccines for
24 children program and insured children;

25 (2) invoice each health insurer and group

1 health plan to reimburse the department for the cost of
2 vaccines provided directly or indirectly by the department to
3 such health insurer's or group health plan's insured
4 children;

5 (3) maintain a list of registered providers
6 who receive vaccines for insured children that are purchased
7 by the state and provide such list to each health insurer and
8 group health plan with every invoice;

9 (4) report the failure of a health insurer
10 to reimburse the department within thirty days of the date of
11 the invoice to the office of superintendent;

12 (5) report the failure of a health insurer
13 or group health plan to reimburse the department within
14 thirty days of the date of the invoice to the office of the
15 attorney general for collection; and

16 (6) credit all receipts collected from
17 health insurers and group health plans pursuant to the
18 Vaccine Purchasing Act to the fund.

19 C. No later than July 1, 2015 and July 1 of each
20 year thereafter, the department shall estimate the amount to
21 be expended annually by the department to purchase, store and
22 distribute vaccines recommended by the advisory committee on
23 immunization practices to all insured children in the state,
24 including a reserve of ten percent of the amount estimated.

25 D. No later than September 1, 2015 and each

1 quarter thereafter, the department shall invoice each health
2 insurer and each group health plan for one-fourth of its
3 proportionate share of the estimated amount and reserve
4 pursuant to Subsection C of this section, calculated pursuant
5 to Subsection B of Section 6 of the Vaccine Purchasing Act.

6 E. The department may update its estimated amount
7 to be expended annually and its reserve to take into account
8 increases or decreases in the cost of vaccines or the costs
9 of additional vaccines that the department determines should
10 be included in the statewide vaccine purchasing program and
11 adjust the amount invoiced to each health insurer and group
12 health plan the following quarter.

13 SECTION 4. VACCINE PURCHASING FUND.--

14 A. The "vaccine purchasing fund" is created in the
15 state treasury. The fund consists of amounts reimbursed to
16 the state by health insurers and group health plans pursuant
17 to the Vaccine Purchasing Act and of appropriations from, and
18 transfers made to, the fund. Money in the fund shall be
19 expended only for the purposes specified in the Vaccine
20 Purchasing Act, by warrant issued by the secretary of finance
21 and administration pursuant to vouchers approved by the
22 secretary of health.

23 B. Money from the fund may be appropriated to the
24 department to be expended only as authorized in Section 5 of
25 the Vaccine Purchasing Act.

1 C. The fund shall be audited in the same manner as
2 other state funds are audited, and all records of payments
3 made from the fund shall be open to the public.

4 D. Any balance remaining in the fund shall not
5 revert or be transferred to any other fund at the end of a
6 fiscal year.

7 E. Money in the fund shall be invested by the
8 state investment officer in accordance with the limitations
9 in Article 12, Section 7 of the constitution of New Mexico.
10 Income from investment of the fund shall be credited to the
11 fund.

12 SECTION 5. AUTHORIZED USES OF THE VACCINE PURCHASING
13 FUND.--

14 A. The fund shall be used for the purchase,
15 storage and distribution of vaccines, as recommended by the
16 advisory committee on immunization practices, for insured
17 children who are not eligible for the vaccines for children
18 program.

19 B. The department shall credit any balance
20 remaining in the fund at the end of the fiscal year toward
21 the department's purchase of vaccines the following year;
22 provided that the department maintains a reserve of ten
23 percent of the amount estimated to be expended in the
24 following year.

25 C. The fund shall not be used:

1 (1) for the purchase, storage and
2 distribution of vaccines for children who are eligible for
3 the vaccines for children program;

4 (2) for administrative expenses associated
5 with the statewide vaccine purchasing program; or

6 (3) to pass through a federally negotiated
7 discount pursuant to 42 U.S.C. 1396s.

8 SECTION 6. REPORTING.--

9 A. No later than one hundred twenty days following
10 the enactment of the Vaccine Purchasing Act, the office of
11 superintendent shall:

12 (1) promulgate rules requiring each health
13 insurer and group health plan to report the number of
14 children it insured who were under the age of nineteen as of
15 December 31, 2014 and to annually report the number of
16 children it insures who will be under the age of nineteen as
17 of December 31 of each subsequent year to the office of
18 superintendent, excluding from such reports children who are
19 enrolled in medicaid or in any medical assistance program
20 administered by the department or the human services
21 department and children who are American Indian or Alaska
22 Natives; and

23 (2) for each health insurer or group health
24 plan, provide the department with the number of insured
25 children reported by such health insurer or group health plan

1 pursuant to Paragraph (1) of this subsection.

2 B. Each health insurer and group health plan shall
3 reimburse the department for the cost of vaccines for
4 childhood immunizations purchased by the state for the
5 benefit of such health insurer's or group health plan's
6 insured children according to such health insurer's or group
7 health plan's policy obligations and in accordance with
8 health insurance coverage requirements under state and
9 federal law. The amount reimbursed by each health insurer or
10 group health plan shall be a fraction, the denominator of
11 which is the total number of insured children reported by all
12 health insurers and group health plans pursuant to
13 Subsection A of this section and the numerator of which is
14 the number of insured children reported by such health
15 insurer or group health plan pursuant to Subsection A of this
16 section multiplied by the total amount as determined by the
17 department pursuant to Subsection B of Section 3 of the
18 Vaccine Purchasing Act.

19 C. A health insurer's or group health plan's
20 reimbursement to the department pursuant to the Vaccine
21 Purchasing Act shall be deemed payment for clinical services
22 and activities to promote health care quality for the purpose
23 of calculating a health insurer's or group health plan's
24 medical loss ratio.

25 SECTION 7. APPEAL--PENALTIES.--

1 A. A health insurer aggrieved pursuant to the
2 Vaccine Purchasing Act may appeal as provided in
3 Section 59A-4-20 NMSA 1978.

4 B. A health insurer or group health plan that
5 fails to file a report required by the office of
6 superintendent pursuant to Subsection A of Section 6 of the
7 Vaccine Purchasing Act shall pay a late filing fee of five
8 hundred dollars (\$500) per day for each day from the date the
9 report was due.

10 C. The office of superintendent may require a
11 health insurer or group health plan subject to the Vaccine
12 Purchasing Act to produce records that were used to prepare
13 the report required under Subsection A of Section 6 of the
14 Vaccine Purchasing Act. If the office of superintendent
15 determines that there is other than a good faith discrepancy
16 between the number of insured children reported and the
17 number of insured children that should have been reported,
18 the health insurer or group health plan shall pay a civil
19 penalty of five hundred dollars (\$500) for each report filed
20 for which the office of superintendent determines there is
21 such a discrepancy.

22 D. Failure of a health insurer or group health
23 plan to make timely payment of an amount invoiced pursuant to
24 Subsection D of Section 3 of the Vaccine Purchasing Act shall
25 subject the health insurer or group health plan to a civil

1 penalty of five hundred dollars (\$500) for each day from the
2 date the payment is due.

3 SECTION 8. POWERS AND AUTHORITY.--The department and
4 the office of superintendent shall promulgate and enforce
5 such rules as may be necessary to carry out the provisions of
6 the Vaccine Purchasing Act.

7 SECTION 9. APPLICABILITY.--The provisions of the
8 Vaccine Purchasing Act:

9 A. do not apply to an entity that only issues
10 policies, certificates or subscriber contracts within
11 New Mexico that are limited to a specific disease; hospital
12 confinement; indemnity; accident-only; credit; dental;
13 vision; medicare supplement; long-term care; disability
14 income insurance; student health benefits-only coverage
15 issued as a supplement to liability insurance; workers'
16 compensation or similar insurance; automobile medical payment
17 insurance; nonrenewable short-term coverage issued for a
18 period of twelve months or less; medicaid; or any medical
19 assistance program administered by the department or the
20 human services department; and

21 B. apply to policies, plans, contracts and
22 certificates delivered or issued for delivery or renewed,
23 extended or amended in this state on or after
24 January 1, 2015.

25 SECTION 10. EMERGENCY.--It is necessary for the public

1 peace, health and safety that this act take effect

2 immediately. _____

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