

1 SENATE BILL 405

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH COVERAGE; ENACTING THE MEDICAID BUY-IN ACT  
12 TO PROVIDE HEALTH COVERAGE TO CERTAIN UNINSURED INDIVIDUALS;  
13 CREATING THE HEALTH CARE AFFORDABILITY AND ACCESS IMPROVEMENT  
14 FUND; CREATING AN ADVISORY BOARD; MAKING APPROPRIATIONS.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
18 cited as the "Medicaid Buy-In Act".

19 SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the  
20 Medicaid Buy-In Act is to establish a state public option  
21 through medicaid to provide New Mexico residents with a choice  
22 of a high-quality, low-cost health insurance plan.

23 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
24 Medicaid Buy-In Act:

25 A. "copayment" means a fixed dollar amount that a

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1       medicaid buy-in enrollee must pay directly to a health care  
2       provider or pharmacy for a service, visit or item;

3               B. "deductible" means a fixed dollar amount that a  
4       person enrolled in the medicaid buy-in plan may be required to  
5       pay during a benefit period before the plan begins payment for  
6       covered benefits;

7               C. "department" means the human services  
8       department;

9               D. "health care coverage premium cost" means the  
10       premium charged for health care coverage that is available or  
11       currently provided to an individual;

12              E. "health care provider" means any physical,  
13       mental or behavioral health provider, including a hospital,  
14       physician, clinic and other health facility;

15              F. "managed care organization" means an  
16       organization licensed or authorized through an agreement among  
17       state entities to manage, coordinate and receive payment for  
18       the delivery of specified services to enrolled members;

19              G. "medicaid" means the joint federal-state health  
20       coverage program pursuant to Title 19 or Title 21 of the  
21       federal Social Security Act, as amended, and the rules  
22       promulgated pursuant to that act;

23              H. "medicaid buy-in plan" means a state-  
24       administered public option health care coverage plan that  
25       leverages the medicaid coverage structure;

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1 I. "medicare" means coverage under Part A or Part B  
2 of Title 18 of the federal Social Security Act, as amended, and  
3 the rules promulgated pursuant to that act;

4 J. "premium" means the monthly amount that a  
5 medicaid buy-in enrollee must pay directly to the managed care  
6 organization offering the enrollee's plan for consideration of  
7 the plan's coverage; and

8 K. "resident" means a person establishing intent to  
9 permanently reside in New Mexico.

10 SECTION 4. [NEW MATERIAL] MEDICAID BUY-IN PLAN.--

11 A. By January 1, 2021, the department shall  
12 establish a medicaid buy-in plan and shall offer the buy-in  
13 plan for purchase by a resident:

- 14 (1) who is ineligible for the following:  
15 (a) medicaid;  
16 (b) medicare; and  
17 (c) advance premium tax credits under  
18 the federal Patient Protection and Affordable Care Act; and

19 (2) whose employer has not disenrolled or  
20 denied the resident enrollment in employer-sponsored health  
21 coverage on the basis that the resident would otherwise qualify  
22 for enrollment in medicaid buy-in coverage.

23 B. Contingent upon further study as outlined in the  
24 Medicaid Buy-In Act, the department may expand eligibility to  
25 other New Mexico residents beyond those individuals who quality

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1 for the medicaid buy-in pursuant to the provisions of  
2 Subsection A of this section.

3 C. The department shall establish benefits under  
4 the medicaid buy-in plan in accordance with federal and state  
5 law to ensure that covered benefits include:

- 6 (1) ambulatory patient services;
- 7 (2) emergency services;
- 8 (3) hospitalization;
- 9 (4) maternity and newborn care;
- 10 (5) mental health and substance use disorder  
11 services, including behavioral health treatment;
- 12 (6) prescription drugs;
- 13 (7) rehabilitative and habilitative services  
14 and devices;
- 15 (8) laboratory services;
- 16 (9) preventive and wellness services,  
17 including reproductive health and chronic disease management;  
18 and
- 19 (10) pediatric services, including oral and  
20 vision care.

21 D. For services and benefits provided under this  
22 section, the department may pursue any available federal  
23 financial participation.

24 E. The department shall coordinate the medicaid  
25 buy-in plan's enrollment and eligibility to maximize the

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1 continuity of coverage between the medicaid buy-in plan,  
2 medicaid and private health plans.

3 F. Health care provider reimbursement rates shall  
4 be based on the medicaid fee schedule. Contingent upon  
5 available funds, the department may increase reimbursement  
6 rates for health care providers, so long as these increases do  
7 not jeopardize the sustainability of medicaid or the medicaid  
8 buy-in plan.

9 G. The medicaid buy-in plan shall be established in  
10 compliance with non-discrimination mandates set forth in the  
11 constitution of New Mexico and the Human Rights Act and the  
12 federal Civil Rights Act of 1964 and shall be available to  
13 residents irrespective of age, race, gender, national origin,  
14 immigration status, disability or geographic location.

15 SECTION 5. [NEW MATERIAL] ADMINISTRATION.--

16 A. The department shall develop a plan for  
17 administering the medicaid buy-in plan that prioritizes  
18 affordability for enrollees and provides opportunities to  
19 maximize federal dollars.

20 B. The department shall:

21 (1) establish an affordability scale for  
22 premiums and other cost-sharing fees, such as copayments and  
23 deductibles, based on household income. The department shall  
24 offer discounted premiums and cost-sharing fees in accordance  
25 with the affordability scale to residents eligible to enroll in

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1 the medicaid buy-in plan; provided that such financial  
2 assistance is, at a minimum, offered to residents with  
3 household incomes below two hundred percent of the federal  
4 poverty level;

5 (2) set the total amount of premiums that  
6 should be assessed to medicaid buy-in plan enrollees, after an  
7 actuarial analysis, to ensure maximum access to coverage.  
8 Premiums imposed may be set at a level sufficient to offset the  
9 costs of health benefits under the medicaid buy-in plan and  
10 related administrative costs;

11 (3) establish enrollment periods that are no  
12 less extensive than those provided for under the federal  
13 Patient Protection and Affordable Care Act; and

14 (4) consult with representatives of New Mexico  
15 Indian nations, tribes and pueblos to ensure that  
16 implementation and expansion of the medicaid buy-in plan  
17 promote effective, meaningful communication and collaboration,  
18 including communicating and collaborating on those nations',  
19 tribes' and pueblos' plans for participating in the medicaid  
20 buy-in plan.

21 C. The department may:

22 (1) administer the medicaid buy-in plan  
23 through the managed care organizations under contract with the  
24 state to provide medicaid services and benefits.

25 Notwithstanding this provision, Native Americans eligible for

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1 the medicaid buy-in plan may choose to continue receiving  
2 medicaid or medicaid buy-in services through fee-for-service  
3 arrangements;

4 (2) establish special enrollment periods for  
5 individuals, categories of enrollees or the entire population  
6 eligible for the medicaid buy-in plan;

7 (3) set the medical loss ratio for insurers  
8 offering the medicaid buy-in plan consistent with the ratio  
9 applicable to medicaid;

10 (4) establish a method for procuring  
11 prescription drugs. This authority shall include:

12 (a) consulting or contractiing with  
13 other entities or states for combined purchasing power; and

14 (b) seeking federal authority for a  
15 wholesale drug importation program that complies with federal  
16 provisions relating to importation of pharmaceuticals and  
17 federal requirements regarding safety and cost savings; and

18 (5) seek viable opportunities to reduce costs  
19 of the medicaid buy-in plan to consumers and the general fund;  
20 provided that such opportunities are consistent with the  
21 provisions of the Medicaid Buy-In Act, do not reduce  
22 eligibility or benefits for medicaid enrollees and do not  
23 jeopardize federal financing for medical assistance.

24 D. The department shall promulgate rules consistent  
25 with and necessary to carry of the provisions of the Medicaid

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1 Buy-In Act.

2 SECTION 6. [NEW MATERIAL] HEALTH CARE AFFORDABILITY AND  
3 ACCESS IMPROVEMENT FUND CREATED.--

4 A. The "health care affordability and access  
5 improvement fund" is created as a nonreverting fund in the  
6 state treasury. The department shall administer the fund. The  
7 fund shall be invested by the state treasurer as other state  
8 funds are invested. Income earned from investment of the fund  
9 shall be credited to the health care affordability and access  
10 improvement fund. Any unexpended or unencumbered balance  
11 remaining at the end of a fiscal year shall not revert to the  
12 general fund.

13 B. Money in the health care affordability and  
14 access improvement fund shall be expended by the department to  
15 ensure affordability of the medicaid buy-in plan for enrollees  
16 in the plan. Disbursements from the fund shall be made by  
17 warrant of the secretary of finance and administration pursuant  
18 to vouchers signed by the secretary of human services or the  
19 secretary's designee.

20 C. The department may expend a maximum of five  
21 percent per year of the fund for the administrative costs  
22 related to the medicaid buy-in plan.

23 SECTION 7. [NEW MATERIAL] ENROLLMENT.--The department and  
24 the New Mexico health insurance exchange shall coordinate  
25 efforts and cooperate to establish:

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1           A. a system under which residents may apply for  
2 enrollment in, receive a determination of eligibility for  
3 participation in and renew participation in medicaid, the  
4 medicaid buy-in plan or a qualified health plan offered by the  
5 exchange; and

6           B. a consumer outreach program to assist residents  
7 with enrolling in medicaid, the medicaid buy-in plan and  
8 qualified health plans offered through the exchange.

9           SECTION 8. [NEW MATERIAL] ADDITIONAL STUDY.--

10           A. The department, in coordination with the  
11 legislative health and human services committee, shall conduct  
12 further study of the medicaid buy-in plan to evaluate its  
13 viability for offering it to a wider population of residents.  
14 The study shall include an assessment of the:

15                   (1) viability of offering the medicaid buy-in  
16 plan to more residents;

17                   (2) impact on the individual and group  
18 insurance markets;

19                   (3) level of provider reimbursement rates to  
20 maximize access to health care services;

21                   (4) steps necessary for the state to apply for  
22 federal waivers to maximize federal dollars and leverage them  
23 to ensure affordability for enrollees in the medicaid buy-in  
24 plan; and

25                   (5) sustainability options for a medicaid

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1 buy-in plan that is open to all residents.

2 B. By September 30, 2020, the department shall  
3 submit a report to the legislative health and human services  
4 committee and the legislative finance committee detailing the  
5 findings of additional study of the medicaid buy-in plan. The  
6 report shall include proposals for continued sustainability of  
7 the medicaid buy-in plan and offering the plan to more  
8 residents.

9 C. Contingent upon the findings of the additional  
10 study of the medicaid buy-in plan, the department may seek any  
11 federal waivers necessary to offer the medicaid buy-in plan to  
12 more residents and maximize federal dollars to ensure  
13 affordability for enrollees. The department's authority to  
14 seek federal waivers includes authority to seek approval for  
15 health care programs and delivery system innovations under  
16 Sections 1331 and 1332 of the federal Patient Protection and  
17 Affordable Care Act and Section 1115 of the federal Social  
18 Security Act.

19 SECTION 9. [NEW MATERIAL] ADVISORY COUNCIL.--The  
20 secretary of human services shall establish a "medicaid buy-in  
21 advisory council" to advise the department on implementation,  
22 plan affordability, marketing, enrollment, outreach and  
23 evaluation of health care access for residents enrolled in the  
24 medicaid buy-in plan. The advisory council consists of:

25 A. the secretary of human services;

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- 1           B. the superintendent of insurance;
- 2           C. the chief executive officer of the New Mexico  
3 health insurance exchange;
- 4           D. the executive director of the New Mexico medical  
5 insurance pool;
- 6           E. five consumer advocates, including one that  
7 serves Native American populations in the state;
- 8           F. three health care providers;
- 9           G. one representative from a medicaid managed care  
10 organization;
- 11           H. at least one representative with expertise in  
12 the federal Indian health service or a tribal government health  
13 care entity and health care delivery to Native Americans  
14 residing on reservations;
- 15           I. at least one representative with expertise in  
16 the federal Indian health service or a tribal government health  
17 care entity and health care delivery to Native Americans  
18 residing off-reservation in urban areas;
- 19           J. at least one public health expert with  
20 experience in behavioral and mental health;
- 21           K. at least one public health expert with  
22 experience evaluating health data and utilization trends; and
- 23           L. at least one researcher with experience in  
24 health care financing and administration.

25           **SECTION 10. [NEW MATERIAL] LIMITATION ON EMPLOYERS.--An**

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1 employer that offers employer-sponsored health coverage as of  
2 the effective date of the Medicaid Buy-In Act shall not  
3 disenroll or deny enrollment to a resident covered under the  
4 employer's employer-sponsored health coverage on the basis that  
5 the employer believes that the resident would qualify for  
6 medicaid buy-in plan coverage.

7 SECTION 11. APPROPRIATIONS.--

8 A. Twelve million dollars (\$12,000,000) is  
9 appropriated from the general fund to the human services  
10 department for expenditure in fiscal year 2020 for the  
11 implementation and administration of the medicaid buy-in plan  
12 pursuant to the provisions of the Medicaid Buy-In Act and to  
13 conduct the expansion study pursuant to Section 8 of that act.  
14 Any unexpended or unencumbered balance remaining at the end of  
15 fiscal year 2020 shall revert to the general fund.

16 B. Twelve million dollars (\$12,000,000) is  
17 appropriated from the general fund to the health care  
18 affordability and access improvement fund for expenditure in  
19 fiscal year 2020 and subsequent fiscal years to ensure  
20 affordability of the medicaid buy-in plan for enrollees in the  
21 plan pursuant to the Medicaid Buy-In Act. Any unexpended or  
22 unencumbered balance remaining in the fund at the end of a  
23 fiscal year shall not revert to the general fund.