

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 42

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

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 DURING INCARCERATION.

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

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

A. Incarceration shall not be a basis to deny or
terminate enrollment in medicaid.

B. Upon release from incarceration, the formerly
incarcerated individual shall remain enrolled in medicaid until
the individual is determined to be ineligible for medicaid as
provided by federal law on grounds other than incarceration.

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underscored material = new
[bracketed material] = delete

1 C. An incarcerated individual who was not enrolled
2 in medicaid upon the date that the individual became
3 incarcerated shall be permitted to submit an application for
4 medicaid enrollment during the incarcerated individual's period
5 of incarceration. To execute the provisions of this
6 subsection, the human services department shall create a
7 process for assisting incarcerated individuals with applying to
8 enroll in medicaid in a manner consistent with federal
9 requirements.

10 D. The fact that an individual who submits an
11 application for enrollment in medicaid is incarcerated shall
12 not be grounds for the human services department to refuse to
13 process an application for medicaid enrollment that the
14 incarcerated individual submits in a manner otherwise in
15 accordance with state law and the rules of the human services
16 department.

17 E. The provisions of this section shall not be
18 construed to abrogate:

19 (1) any deadline that governs the processing
20 of applications for enrollment in medicaid pursuant to existing
21 federal or state law; or

22 (2) requirements under federal or state law
23 that the human services department be notified of changes in
24 income or residency.

25 F. The secretary of human services shall

1 collaborate and cooperate with the corrections department, the
2 children, youth and families department and the administrators
3 of each of the correctional facilities in the state to carry
4 out the provisions of this act.

5 G. The secretary of human services shall adopt and
6 promulgate rules consistent with this section.

7 H. As used in this section:

8 (1) "incarcerated individual" means an
9 individual, the legal guardian or conservator of an individual
10 or, for an individual who is an unemancipated minor, the parent
11 or guardian of the individual, who is confined in any of the
12 following correctional facilities:

13 (a) a state correctional facility;

14 (b) a privately operated correctional
15 facility;

16 (c) a county jail;

17 (d) a municipal jail;

18 (e) a privately operated jail;

19 (f) a detention facility that is
20 operated under the authority of the children, youth and
21 families department and that holds the individual pending a
22 court hearing; or

23 (g) a facility that is operated under
24 the authority of the children, youth and families department
25 and that provides for the care and rehabilitation of an

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1 individual who is under eighteen years of age and who has
2 committed an act that would be designated as a crime under the
3 law if committed by an individual who is eighteen years of age
4 or older;

5 (2) "medicaid" means the joint federal-state
6 health coverage program pursuant to Title 19 or Title 21 of the
7 federal Social Security Act and rules promulgated pursuant to
8 that act; and

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

11 (a) is not on active duty in the armed
12 forces; and

13 (b) has not been declared by court order
14 to be emancipated.