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AN ACT
RELATING TO PUBLIC ASSISTANCE; AMENDING A SECTION OF THE
PUBLIC ASSISTANCE ACT AND ENACTING A NEW SECTION OF THE
NMSA 1978 TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO
PROVIDE FOR CONTINUED MEDICAID ELIGIBILITY FOR INCARCERATED
INDIVIDUALS WHO WERE ENROLLED IN MEDICAID UPON INCARCERATION
AND ELIGIBILITY FOR MEDICAID FOR INDIVIDUALS DURING
INCARCERATION.

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

SECTION 1. Section 27-2-4 NMSA 1978 (being Laws 1973,
Chapter 376, Section 4, as amended) is amended to read:

"27-2-4. ELIGIBILITY REQUIREMENTS.--Consistent with the
federal act, a person is eligible for public assistance
grants under the Public Assistance Act if:

A. pursuant to Section 27-2-3 NMSA 1978, the total
amount of the person's nonexempt income is less than the
applicable standard of need;

B. nonexempt specific and total resources are less
than the level of maximum permissible resources established
by the department;

C. the person meets all qualifications for one of
the public assistance programs authorized by the Public
Assistance Act;

D. within two years immediately prior to the
filing of an application for assistance, the person has not
made an assignment or transfer of real property unless the

1 person has received a reasonable return for the real property
2 or, if the person has not received a reasonable return, the
3 person is willing to attempt to obtain such return and, if
4 that attempt proves futile, the person is willing to attempt
5 to regain title to the property;

6 E. the person is not an inmate of any public
7 nonmedical institution at the time of receiving assistance,
8 except that an inmate may be eligible for medical assistance
9 programs administered by the medical assistance division of
10 the department; and

11 F. the person is a resident of New Mexico."

12 SECTION 2. INCARCERATED INDIVIDUALS--MEDICAID
13 ELIGIBILITY.--

14 A. Incarceration shall not be a basis to deny or
15 terminate eligibility for medicaid.

16 B. Upon release from incarceration, a formerly
17 incarcerated individual shall remain eligible for medicaid
18 until the individual is determined to be ineligible for
19 medicaid on grounds other than incarceration.

20 C. An incarcerated individual who was not enrolled
21 in medicaid upon the date that the individual became
22 incarcerated shall be permitted to submit an application for
23 medicaid during the incarcerated individual's period of
24 incarceration.

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

(1) any deadline that governs the processing

1 of applications for medicaid pursuant to existing federal or
2 state law; or

3 (2) requirements under federal or state law
4 that the human services department be notified of changes in
5 income, resources, residency or household composition.

6 E. The provisions of this section shall not
7 require the human services department to pay for services on
8 behalf of any incarcerated individual, except as permitted by
9 federal law.

10 F. A correctional facility shall inform the human
11 services department when an eligible individual is
12 incarcerated and shall notify the department upon that
13 eligible individual's release.

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

16 H. As used in this section:

17 (1) "eligibility" means a finding by the
18 human services department that an individual has met the
19 criteria established in state and federal law and the
20 requirements established by department rules to enroll in
21 medicaid;

22 (2) "incarcerated individual" means an
23 individual, the legal guardian or conservator of an
24 individual or, for an individual who is an unemancipated
25 minor, the parent or guardian of the individual, who is
confined in any of the following correctional facilities:

(a) a state correctional facility;

1 (b) a privately operated correctional
2 facility;

3 (c) a county jail;

4 (d) a privately operated jail;

5 (e) a detention facility that is
6 operated under the authority of the children, youth and
7 families department and that holds the individual pending a
8 court hearing; or

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

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

20 (4) "unemancipated minor" means an
21 individual who is under eighteen years of age and who:

22 (a) is not on active duty in the armed
23 forces; and

24 (b) has not been declared by court
25 order to be emancipated. _____