ORDINANCE NO. 33

LEA COUNTY
INDIGENT HOSPITAL CLAIMS ADMINISTRATION ORDINANCE

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEA COUNTY:

SECTION 1.

SHORT TITLE

This Ordinance may be cited as the "Lea County Indigent Hospital Claims Administration Ordinance".

SECTION 2.

DECLARATION OF INTENT AND PURPOSE

Pursuant to the Indigent Hospital and County Health Care Act, Sections 27-5-1 through 27-5-18 NMSA 1978 Compilation, as amended, and pursuant to Sections 27-10-1 through 27-10-4 NMSA 1978 Compilation, as amended, Lea County is the responsible agency for the care of indigent patients domiciled in the County and must provide the financial means to discharge that duty. Therefore, the Board of County Commissioners of Lea County by this Ordinance hereby provides for the care of indigent patients and the administration of the funds necessary to satisfy the County's obligation to the County Supported Medicaid Fund and Sole Community Provider Fund.

SECTION 3.

DEFINITIONS

(A) "Ambulance Provider" or "Ambulance Service" means a specialized carrier authorized to do business in New Mexico by the State Corporation Commission to transport

persons alive, dead or dying en route by means of ambulance service. The rates and charges established by the State Corporation Commission tariff shall govern as to allowable cost.

Provided however, that ambulance services provided by the incorporated municipalities within Lea County are provided a subsidy through other budgetary processes of Lea County are not eligible for reimbursement under this Ordinance or the regulations adopted by the Board.

(B) "Applicant" shall mean the patient, the patient's spouse, the patients's parent or guardian if the patient is a minor, or the guarantor of the hospital bill. In the event of the death of the patient, the executor, administrator, personal representative, relative of the deceased, the person responsible for the hospital bill or any interested party providing information on behalf of the deceased may be the applicant.

(C) "Board" means the Board of County Commissioners of Lea County, New Mexico, and/or the Lea County Indigent Hospital Claims Board.

(D) "Cost" means all allowable ambulance transportation or medical costs, except for emergency room fees, for an indigent patient incurred by a health care institution as defined herein. Allowable costs shall be determined in accordance with a uniform system of accounting and cost analysis as determined by regulation of the Board, which includes costs of ancillary services, but shall not include the cost of servicing long-term indebtedness of a hospital or ambulance service as defined herein. Whenever hospitalization is required as a portion of the treatment for an "indigent patient" the maximum allowable room rate charge shall be limited to the semi-private room rate.

(E) "County" means Lea County, State of New Mexico.

(F) "Department" means the Human Services Department.

(G) "Fund" means the revenues generated through gross receipts taxes dedicated to the Indigent Claims Fund,interest generated thereon, and any funds recovered. It shall not, under any circumstances, exceed the amounts so dedicated by the Board of County Commissioners.

(H) "Indigent Patient" means a person whose principal place of residence is, and whose domicile is located within Lea County for at least three (3) months preceding the provision of medical service and/or ambulance transportation, and to whom an ambulance service or a health care institution has provided medical care or ambulance transportation and who can normally support himself and his dependents on present income and liquid assets available to him but, taking into consideration this income and those assets and his requirement for other necessities of life for himself and his dependents, is unable to pay the cost of the ambulance transportation or medical care administered, or both. Provided, however, it shall not include any person whose annual income, together with his spouse's annual income totals an amount which is fifty (50%) percent greater than the per capita household income for New Mexico as shown for the most recent year available in the survey of current business published by the United States Department of Commerce. The term "indigent patient" shall include a minor who has received ambulance transportation or medical care, or both, and whose parent, or the person having his custody, would qualify as an indigent patient if transported by ambulance or admitted to a health care institution for care, or both. The "indigent patient" as defined herein shall not be eligible for benefits pursuant to this ordinance unless and until any existing health insurance coverage from which the "indigent patient" is eligible for benefits has been exhausted.

(I) "Health Care Institution" means any general or limited hospital licensed by the Health and Environment Department, whether profit or nonprofit or owned by the State or political subdivision and which comply with the provisions of the Indigent Hospital and County Health Care Act.

(J) "Health Care Provider" means:

(1) an in-state licensed hospice;

(2) a community-based health program operated by a nonprofit health organization that provides prenatal care delivered by New mexico licensed, certified or registered health care practitioners;

(3) a community-based health program operated by a nonprofit health care organization that provides primary care delivered by New Mexico licensed, certified or registered health care practitioners;

(4) a drug rehabilitation program operated by a private nonprofit entity that operates drug abuse rehabilitation programs that meet the standards and requirements pursuant to the Drug Abuse Act Section 26-2-1 to 26-2-4, 26-2-5 to 26-2-12 NMSA 1978;

(5) a community based mental health program operated by a private nonprofit entity that mental health services that meet the standards set by the department of health pursuant to the Community Mental Health Services Act Section 23-7-2 to 23-7-12 NMSA 1978.

SECTION 4.

THE LEA COUNTY INDIGENT HOSPITAL CLAIMS

AND COUNTY HEALTH BOARD

(A) The members of the Lea County Indigent Hospital Claims and County Health Board shall be composed of the members of the Board of County Commissioners of Lea County, and the Chairman of the Board of County Commissioners of Lea County shall be the Chairman of the Lea County Indigent Hospital Claims Board.

In the Event that the Board of County Commissioners determines that an independent Board should be appointed to fulfill the requirements of this ordinance, The Board of County Commissioners shall appoint a five member Board. The Commissioner from each County Commission District shall have the right to nominate one member of the Lea County Indigent Claims board subject to approval by a majority vote of the Board of County Commissioners. Each member so appointed shall serve a term of two years. The appointed Board shall be known as the Lea County Indigent Hospital Claims and County Health Board. The terms of the members so appointed shall run until the expiration of the term of office of the member of the Board of County Commissioners nominating them for appointment. In the case of a vacancy on the appointed Board, a new member shall be appointed as provided for above.

(B) Members of the Board shall receive no compensation but shall be reimbursed for their actual per diem and mileage in an amount not to exceed the per diem and mileage as is paid to members of other Lea County Boards and Committees.

(C) Each member of the Board shall furnish a surety bond, premium for which shall be paid from the Fund, executed by a surety company licensed to do business in New Mexico, conditioned that he will faithfully perform his duties and account for the funds. The bond shall

be in the penal sum of Five Thousand and No/100 Dollars ($5,000.00), running to the benefit of the Board for payments into the Fund.

SECTION 5.

POWERS AND DUTIES OF THE BOARD

The Board:

(A) shall administer claims pursuant to the provisions of the Indigent Hospital and County Health Care Act and shall develop rules, regulations and policies to carry out the provisions of the Indigent Hospital and County Health Care Act and this ordinance;

(B) shall prepare and submit a budget to the Board of County Commissioners for the amount needed to defray claims made upon the fund and to pay costs of administration of the Indigent Hospital and County Health Care Act, which costs of administration shall in no event exceed the following percentages of revenues based on the previous fiscal year revenues for a fund that has existed for at least one fiscal year or based on projected revenues for the year being budgeted for a fund that has existed for less than one fiscal year. The percentage of the revenues in the fund that may be used for administrative costs is equal to the sum of the following:

(1) ten percent (10%) of the amount in the fund not over five hundred thousand dollars ($500,000);

(2) eight percent (8%) of the amount in the fund over five hundred thousand dollars ($500,000) but not over one million dollars ($1,000,000); and

(3) four and one-half percent (4½%) of the amount in the fund over one million dollars;

(C) shall make rules and regulations necessary to carry out the provisions of the Indigent Hospital and County Health Care Act; provided that the standards for eligibility and allowable costs for County indigent patients shall be no more restrictive than the standards for eligibility and allowable costs prior to December 31, 1992;

(D) shall set criteria and cost limitations for medical care in licensed health care institutions, ambulance services or health care providers;

(E) shall cooperate with appropriate state agencies to use available funds efficiently and to make health care more available;

(F) shall cooperate with the Department in making any investigation to determine the validity of claims made upon the fund for any indigent patient;

(G) may accept contributions or other county revenues, which shall be deposited in the fund;

(H) may hire personnel to carry out the provisions of the Indigent Hospital and County Health Care Act;

(I) shall review all claims presented by a hospital or ambulance service to determine compliance with the rules and regulations adopted by the Board or with the provisions of the Indigent Hospital and County Health Care Act, determine whether the patient for whom the claim is made is an indigent patient and determine the allowable medical or ambulance service costs; provided that the burden of proof of any claim shall be upon the applicant, hospital, or ambulance service;

(J) shall state in writing the reason for rejecting or disapproving any claim and shall notify the submitting hospital, ambulance service of the decision;

(K) shall certify all claims that are not matched with federal funds under the state medicaid program and that have been approved by the Board from the fund;

(L) shall determine in accordance with this ordinance the types of health care institutions, health care providers and ambulance service providers that will be eligible to submit claims under the Indigent Hospital and County Health Care Act;

(M) shall review, verify, and approve all medicaid sole community provider hospital certification requests for reimbursement in accordance with rules and regulations adopted by the Board prior to their submittal by the hospital to the Department, but no later than the fifteenth of January of each year;

(N) shall transfer to the State Treasurer by the last day of March, June, September, and December of each year an amount equal to one-fourth (¼) of the County's payment for support of sole community provider payments as calculated by the Department for the County for the current fiscal year. This money shall be deposited in the sole community provider fund; and

(O) may provide for the transfer of money from the County indigent hospital claims fund to the county-supported medicaid fund to meet the requirements of the Statewide Health Care Act [27-10-1 to 27-10-4 NMSA 1978].

SECTION 6.

THE LEA COUNTY INDIGENT HOSPITAL CLAIMS

AND COUNTY HEALTH FUND

(A) There is created in the County Treasury of Lea County the "Lea County Indigent Hospital Claims and County Health Fund."

(B) All contributions and taxes collected pursuant to Ordinance and pursuant to state law as those funds are dedicated by the Board of County Commissioners to meet the County's obligation pursuant to § 27-10-1 through 27-10-4, the Statewide Health Care Act, shall be placed into the Fund, and the amount placed therein shall be budgeted and expended only for the purposes specified in the Indigent Hospital and County Health Care Act as interpreted from time to time by the Taxation and Revenue Department of the State of New Mexico. Certification of requests for reimbursement shall be made upon an application approved by a majority of the Board that are signed by the Chairman of the Board and attested by the County Clerk, and no other Lea County fund shall be taken into consideration or be deemed responsible to make payment for the purposes set forth in this Ordinance.

(C) The Fund shall be audited in the manner that other State and County funds are audited, and all records shall be open to the public.

(D) Any balance remaining in the Fund at the end of the fiscal year, or revenues to be generated may be expended in accordance with the law. Alternatively such balance shall carry over into the ensuing year, and such balance shall be taken into consideration in the determination of the ensuing year's budget and certification of need for the purposes of making a tax levy pursuant to the Indigent Hospital and County Health Care Act and/or for the purposes of designating funds collected pursuant to the County Gross Receipts Tax Act for use in the Lea County Hospital Indigent Claims Fund.

(E) Money may be transferred into the Fund from other sources, but no transfers shall be made from the Fund except for such purposes as are allowed by law.

SECTION 7.

TAX LEVIES

The Board of County Commissioners of Lea County, upon the certification of the Indigent Hospital Claims Board, may impose a levy against the taxable value of the property in Lea County sufficient to raise the amounts certified by the Board for any deficiency in the Fund. Any levy so made shall be made in strict compliance with and pursuant to Section 27-5-9 NMSA 1978 Compilation, as amended, including submission of the question of imposing an indigent hospital levy to the electors of Lea County.

SECTION 8.

ELIGIBILITY OF CLAIMS FOR CERTIFICATION

(A) The Board shall reimburse a health care institution only for the cost of providing reimbursible medical services to certified indigent patients. On the effective date of this ordinance allowable cost shall equal eighty percent (80%) of the reasonable and necessary hospital charges which would be charged self paying patients and non governmental third party payers for the same services and items. This figure shall be used unless amended by the Board pursuant to information provided by the health care institution in accordance with this ordinance and any applicable regulations.

(B) Any eligible recipient health care institutions and ambulance services are required to file the following data:

1. Current data, statistics, schedules and information deemed necessary by the Board to determine the cost for all patients in that institution or tariff rates or charges of an ambulance service;

2. Proof that such health care institution or ambulance service is licensed, where required, under the laws of this State; and

3. Any other information or data deemed necessary by the Board.

(C) Prior to the consideration of any individual claim, a health care institution or ambulance service filing a claim with the Board shall:

1. File claims with the Board only for indigent patients whose principal place of residence is located in or who have been domiciled in Lea County for more than three (3) months prior to the date upon which the ambulance or medical services were rendered;

2. File claims for each patient separately, with an itemized statement detailing all charges;

3. File with the claim a verified statement of qualification for indigent hospital care signed by the patient, or by the parent or person having his custody, to the effect that he qualifies under the provisions of the Indigent Hospital and County Health Care Act as an indigent patient and is unable to pay the cost for the care administered and listing all assets owned by the patient or any person legally responsible for his care. The statement shall constitute an oath of the person signing it, and any false statements in the statement made knowingly shall constitute a felony;

(D) Claims from eligible health care facilities outside of Lea County but located within the State of New Mexico must be filed in the same manner as claims in Lea County, but such claims will be considered for certification only if funds are available within the fiscal year in which the claim is filed, after certification of all in-County claims; and

(E) Claims must be filed within 30 days of the patient's discharge from the health care provider or the transportation date by an ambulance service, unless extended for an additional 30 day period upon application to the Board.

SECTION 9.

EXCLUSIONS AND LIMITATIONS ON CERTIFICATION FROM THE FUND

To facilitate the advantageous use of the available funds and the equitable distribution of the funds available, the following exclusions and limitations are applicable:

(A) Claims for medical services from any health care institution in an amount of $1000.00 or less will not be considered for certification.

(B) The maximum amount to be certified for medical care or services for a single claim shall be certified at a rate equal to the allowable cost or $6,500.00, whichever is less. Should claims in excess of $6,500.00 be received, the maximum certification for reimbursement shall be $6,500.00 for approved claims. However, the balance of the claim may be held in suspense until the end of the fiscal year. At that time, if the fund has not been exhausted, the Board, in their sole discretion, may consider for payment the balance of those claims in excess of $6,500.00, on a case by case basis, and may certify the total of such claims in proportion to the funds available. The maximum amount to be certified for a single claim for ambulance service shall be $300.00 or 80% of billed charges, whichever is less. Partially certified ambulance service claims may be considered for certification in the manner provided for medical service claims.

(C) Whenever the balance of the Fund is inadequate to certify all qualified claims as they become due, the claims of in-state, in-county health care institutions providing acute medical care shall have priority for certification over all other claims regardless of the dates the other claims were submitted. The Board shall, on a regular basis, estimate future demands upon the fund, based on past experience, and set aside sufficient funds to assure certification for in-state health care institutions providing acute medical care and then address, on a regular

basis, the claims from ambulance services. Out-of-county health care institutions must provide documentation that treatment/ service was required and was not available in Lea County.

Claims which are approved shall be certified in accordance with the following priorities regardless of the dates submitted:

(a) In-County medical care

(b) In-state Sole Community Provider medical care

(c) Out-of-County acute medical care

(D) An unpaid claim made to the Board for certification for the care of an indigent patient shall not expire or become invalid because of the lack of money in the Fund during any fiscal year, but shall be carried over into the ensuing year and, notwithstanding the provisions of any other law, shall be reviewed for certification at six-month intervals during the ensuing fiscal year.

(E) Medicaid recipients:

1. A health care institution shall not be paid, nor be allowed certification for reimbursement from the Fund for any charges when the patient has been determined by the Human Services Department to be eligible for medicaid reimbursement from that Department.

2. No action for collection of claims under the Indigent Hospital and County Health Care Act shall be allowed against an indigent patient who is medicaid eligible for medicaid covered services, nor shall action be allowed against the person who is legally responsible for the care of the indigent patient during the time that person is a medicaid eligible.

(F) The Board reserves the right to reject any claim or any part of any claim submitted by any health care institution or ambulance service, within the limitations set forth in the statutes of the State of New Mexico or the rules adopted by the Board.

(G) To be considered for certification, ambulance claims shall be submitted in the same manner as health care institution claims and shall be certified in the same order of priority.

(H) Psychiatric care claims shall be limited to, and paid as follows:

(1) Emergency situations in which there exists the likelihood of serious harm to the patient or to others, as is defined in § 43-1-3 et seq. N.M.S.A. 1978 Compilation.

(2) In any event, payment for psychiatric care shall not be authorized for care which exceeds five (5) days hospitalization provided that in the event that a voluntary or involuntary commitment to the State Hospital is instituted within said five (5) day period, payment may be made for an additional two (2) days at the discretion of the Board.

(3) In no event shall any other psychiatric care be paid.

(4) Under no circumstances shall the Lea County Indigent Hospital Claims Board authorize any payment for more than two (2) psychiatric claims per patient in any twelve (12) Month period of time.

(5) Claims for psychiatric care or hospitalization shall only be eligible if such care meets the above requirements and will be paid only twice per individual lifetime and payment shall not exceed five days for each period of hospitalization care or service. At least six months must pass between the two hospitalizations provided for herein.

(6) Psychiatric care or hospitalization shall only include:

(c) Reasonable laboratory examinations related to the psychiatric diagnosis and treatment; but

(d) psychiatric care or hospitalization shall not include any charges for counseling or other therapy which may be in addition to the usual and customary charges for nursing services on non-psychiatric wards which are usually expressed in terms of "room per day" charges.

(e) The Board shall have absolute discretion and may reject any claim in whole or any line item billed.

(I) Maternity and Childbirth claims shall be limited to and shall only include two lifetime admissions for child birth purposes per indigent patient and shall be limited to $6,500.00 or 80% of any allowed claim whichever is less.

(J) Payment to a hospital from the fund of any claim shall operate as an assignment to the Board of any cause of action to the extent of the payment from the fund to the hospital. Accordingly in the event the hospital is subrogated to liability claims which are the patients the hospital shall provide subrogation to the Board. Likewise any applicant who receives reimbursement through a liability claim shall provide subrogation to the Board. Notice of the potential of reimbursement through subrogation to the proceeds of a liability claim shall accompany the original application.

SECTION 10.

PAYMENTS TO MEDICAL PROVIDERS FROM THE FUND

(A) Claims for alcohol abuse, drug abuse or perinatal and primary care and other services rendered by any health care providers shall not be eligible for reimbursement by claim pursuant to this ordinance.

(B) Should the Claims Administrator determine that there are sufficient revenues in the Fund to cover projected expenses it shall certify that fact to the Board of County Commissioners.

(C) Should there be sufficient revenues the Board of County Commissioners may enter into Agreements with Medical Care Providers located in the County to provide services to indigent County residents upon such terms as the Board, in its sole discretion, deems appropriate.

(D) To the extent permitted by law, such services shall be paid for from the Fund.

SECTION 11.

ADMINISTRATION

(A) The Board shall appoint a Claims Administrator.

(B) The Administrator shall be responsible for administering the Fund on a day-to-day basis.

(C) The Lea County Manager may, from time to time, as is deemed necessary, authorize additional staff with the consent of the Board of County Commissioners to assist the Administrator in performing his duties.

(D) The Administrator's duties shall include but not be limited to:

1. Receiving claims;

2. Investigating claims which may include seeking of verification with the Employment Services Department, the Human Services Department and the local Credit

Bureaus, using the services of County staff as necessary and designated by the Board of County Commissioners;

3. Presenting all claims with the additional factual investigation to the Board for final review and approval or disapproval within forty-five (45) days of receipt of the claim;

4. Carrying out the decisions of the Board and such other duties as may, from time to time, be assigned by the Lea County Board of County Commissioners or the Lea County Manager.

(E) The factual investigation to be conducted by the Administrator shall include all income and asset information, all collection efforts, efforts to obtain guarantors, and verifications of information provided by the patient or patient's responsible party pursuant to the rules, regulations, and policies developed to effectuate the purposes of this ordinance.

SECTION 12.

APPEALS

(A) Any authorized health care institution aggrieved by any decision of the Lea County Indigent Hospital Claims and County Health Board may appeal to the District Court of the Fifth Judicial District within and for Lea County by writ of certiorari.

(B) The appeal authorized herein shall be filed within thirty (30) days of the decision of the Lea County Indigent Hospital Claims and County Health Board from which the appeal is taken and shall be limited to a review of the record of the proceeding before the Board pursuant to the substantial evidence standard accorded to administrative agencies generally in the State of New Mexico.

(C) The Rules of Civil Procedure for the District Courts of New Mexico and the Local Rules of Procedure for the Fifth Judicial District shall apply to any appeal filed pursuant to this Section.

SECTION 13.

OPEN MEETINGS ACT

Meetings of the Lea County Indigent Hospital Claims and County Health Board shall be held in compliance with the Open Meetings Act of the State of New Mexico.

SECTION 14.

SEVERABILITY CLAUSE.

If any section, subsection, clause, phrase or portion of these Regulations is, for any reason, held invalid or unconstitutional by any government agency or court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 15.

EFFECTIVE DATE

This Ordinance shall be effective on the 1st day of July, 1996.

ADOPTED AND APPROVED this the 23rd day of May, 1996.

BOARD OF COUNTY COMMISSIONERS
Lea County

Maurice Hughes

Maurice Hughes, Chairman

Dan Field, Vice Chair

Buster Goff, Member

Ken Batson, Member

John Ayers, Member

ATTEST: Pat Chappelle
Lea County Clerk

By Pat Chappelle

APPROVED:

Lawrence D. Hanna
Hanna & LaBree P.C.
Attorneys for Lea County

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STATE OF NEW MEXICO
COUNTY OF LEA
FILED
MAY 29 1996
at 1:54 o'clock P M
and recorded in Book
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Pat Chappelle, Lea County Clerk
By KS Deputy