



## Assessing New Federal Policy Threats And What They Mean for New Mexico

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The New Mexico Center on Law and Poverty has been monitoring the programmatic and policy changes unfolding at the federal level in the areas of healthcare, public benefits, labor, and education, with particular concern for the people we serve: New Mexican families living in poverty. This memo provides an overview of some of the biggest areas of risk for the hundreds of thousands of low-income individuals in our state, how we are currently addressing those threats, and how our future work may shift.

We hope this overview will be useful as your foundation considers its response to the evolving landscape. Because our state will be impacted so dramatically by these federal changes, we urge you to consider increasing your investment in the advocacy organizations that are working to address these crucial issues in New Mexico.

### HEALTHCARE POLICY CHANGES

- *Reducing and permanently capping federal Medicaid funding.*

The healthcare proposal that was recently considered by the U.S. House of Representatives would have reduced and permanently capped federal funding for Medicaid and for each person enrolled in the program. Costs above that cap would have become the responsibility of the individual states. This approach is intended to save the federal government money in the long-run by forcing states to either pay higher costs to maintain Medicaid coverage or by alternatively cutting or rationing services. Given that New Mexico is already struggling with a budget deficit, these funding changes would almost certainly result in major losses of coverage and services in our state—impeding access to healthcare for two-thirds of New Mexico's children and 42% of our population, including people with disabilities, seniors, and low-income adults.

- *Ending or rolling back the Medicaid expansion.*

Following a broad advocacy campaign by the Center and our allies, New Mexico was the second state led by a Republican Governor to adopt the Medicaid expansion for low-income adults. This dramatically reduced the rate of uninsured individuals in our state. More than 260,000 New Mexicans gained health coverage through the expansion, and the number of uninsured adults fell by 9% between 2014 and 2015 alone. Now, the Trump administration is attempting to roll back the expansion by supporting policy changes to phase out enhanced federal funding for the Medicaid expansion population, shifting billions of dollars of costs to states, and reducing enrollment starting in the year 2020. The Health and Human Services agency has also indicated its openness to allowing states to only cover adults living below 100%

of the Federal Poverty Level (FPL), ending Medicaid coverage for the working poor with incomes between 100% to 138% of the FPL. New Mexico's Governor has already indicated that if federal funding is no longer available for the expansion population, our state may not cover these adults. Any plan that repeals or de-funds the Medicaid expansion would jeopardize the gains that New Mexico has made, leaving hundreds of thousands of New Mexicans uninsured, damaging our healthcare system, and threatening our state economy.

- *Repeal of the Affordable Care Act (ACA).*

The new president, federal Congress, and Secretary of Health and Human Services Tom Price have all expressed a commitment to repealing the ACA. Under the repeal plan recently proposed in Congress, there would have been a major reduction in the tax credits given to families to help them buy health insurance, and people unable to keep up with the payments would have been punished with a 30% surcharge to their insurance rates. These changes would have made healthcare coverage unaffordable for low-income families, pricing thousands of New Mexicans out of the health insurance market.

- *Imposition of higher patient fees, work requirements, and other barriers to Medicaid enrollment.*

In the past, the federal Centers for Medicare and Medicaid Services (CMS) denied requests from states to impose higher patient premiums and copays, work requirements, or other obstacles on low-income Medicaid patients. The new administration will likely be receptive to these ideas. In fact, the president's first executive order was to direct agencies to "prepare to afford the States more flexibility and control to create a more free and open healthcare market." The Director of CMS, Seema Verma, was previously a consultant who redesigned Indiana's Medicaid program to include patient premiums and complex requirements for Health Savings Accounts. The new leaders of CMS are also proponents of increasing the frequency of renewal applications, ending retroactive coverage, and narrowing eligibility for immigrants. All of these changes would result in significant losses of healthcare coverage for New Mexico's Medicaid families.

## **CHANGES TO THE PUBLIC BENEFITS SAFETY NET**

- *Reductions in funding for, or fundamental restructuring of, the federal nutrition programs.*

The Supplemental Nutrition Assistance Program (SNAP) provides essential food assistance for one in four New Mexicans, including over 222,000 children. SNAP benefits are currently entirely paid for by the federal government. The only cost to the state is to administer the program. Hunger advocates are anticipating a national push to cut SNAP benefits, potentially block-grant the program, and eliminate waivers currently in place to allow unemployed adults in areas of high unemployment who cannot find work to continue receiving SNAP. The SNAP program falls under the U.S. Department of Agriculture, and the administration's nominee for Secretary of Agriculture, Sonny Perdue, actively sought to dismantle the public benefits programs when he served as Governor of Georgia. Due to the extent of poverty in New Mexico, any proposals to substantially modify SNAP would harm the more than 510,000 individuals who rely on the program to feed themselves and their children.

- *Restricting benefits eligibility for non-citizens and refugee populations.*

Given the new administration's anti-immigrant rhetoric and executive actions, we anticipate upcoming efforts to restrict food and cash assistance benefits for immigrant families. In fact, in a draft Executive Order leaked earlier this year, changes were outlined that would make it harder for non-citizens to access a vast array of benefits programs and to obtain green cards. The draft order also put immigrants who have used, or who may use, programs for which they are lawfully eligible at risk of deportation.

- *Elimination of civil rights enforcement.*

We have received reports that the new administration will either abolish the U.S. Health and Human Services' Office of Civil Rights, or simply not use the agency to enforce civil rights protections. This Office has previously been an effective vehicle for enforcing language access rights and the rights of people with disabilities in New Mexico. It has also been helpful in fighting discrimination in the administration of the benefits programs, labor laws, and education policies. A lack of effective federal enforcement will present new challenges for agencies, including the Center, that seek to enforce civil rights laws.

## **ROLLBACK IN PROTECTIONS FOR LOW-WAGE WORKERS**

- *Decreased enforcement of federal employment laws.*

Historically, the U.S. Department of Labor (USDOL) has been the most effective and strongest enforcement agency in New Mexico. Now, there are strong indications that the USDOL will no longer take aggressive enforcement action against businesses that violate the law and will reverse worker-friendly practices initiated by the last administration, such as applying statutory damages in cases that violate the Fair Labor Standards Act. We also anticipate that the agency will either rescind or refuse to enforce recent regulations that raised the minimum salary for overtime-exempt workers, expanded overtime protections for home health workers, prohibited tip theft, and required state departments of labor to provide language access.

- *Increased immigration enforcement.*

The sharp uptake of immigration enforcement, including the tactic of "raiding" workplaces, will have a chilling effect on immigrant workers. In the new climate, these workers, who are already at a much higher risk of workplace exploitation and abuse, will reasonably fear reporting any kind of workplace violations to federal, state, or local entities because of the legitimate risks of raid and deportation. This will further weaken the already precarious financial stability of thousands of very low-wage workers and their children.

## **EDUCATION POLICY CHANGES**

- *Promotion of vouchers and charter schools.*

The new U.S. Secretary of Education, Betsy DeVos, is widely known to favor market-based "school choice" education reforms, including voucher programs and tax-incentives for private

school attendance, charter schools, and virtual classrooms. These types of policies tend to exacerbate segregation of students along income and racial lines. Middle and higher-income families are generally more able to navigate and take advantage of private school vouchers and public charter school options, while low-income students tend to remain in lower performing traditional public schools.

- *Reductions in federal funding for education.*

New Mexico’s public schools receive approximately \$400 million dollars in federal funding per year. This entire amount could now be at risk. The loss of federal funding would be detrimental to the overall public education system in New Mexico, but particularly to districts with high rates of low-income students, English language learners, and Native American students. Title I dollars, which are targeted for low-income students, make up the largest chunk of New Mexico’s federal education funding. Indications are that all Title I funding may be diverted to block grants to support vouchers for low-income students to attend private schools. In addition to Title I funds, New Mexico’s school districts also receive federal funding to support English Language Learners, students with disabilities, teacher professional development, and districts with untaxable tribal or federal government lands.

- *Lack of civil rights enforcement.*

As in other program areas, it is widely believed that the Department of Education’s Office of Civil Rights will be gutted, requiring additional focus on state-based civil rights advocacy. Implementation of civil rights protections for culturally and linguistically diverse students may not be enforced, and federal laws governing special education are thought to be at particular risk. The Trump administration has already reversed the Obama administration’s federal guidance specifying that transgender students have the right to use the restroom that matches their gender identity. We anticipate further rollbacks of programs aimed at protecting LGBTQ students’ rights.

## **OUR COMMITMENT TO NEW MEXICO**

These issue areas are all central to the New Mexico Center on Law and Poverty’s mission and strategic plan. We remain committed to using our unique combination of legal, administrative, and policy advocacy expertise to defend access to healthcare, protect the public benefits safety net, enforce the labor rights of low-wage workers, promote civil rights enforcement, and improve the quality of our public education system.

Some of the many ways that the Center is responding to these emerging threats include:

Advocating to protect state funding for Medicaid, since deficient state funding will make it more likely that New Mexico will cut services if federal support is reduced.

Opposing specific proposals in New Mexico to modify or change Medicaid in ways that would reduce coverage or create new enrollment barriers.

Collaborating with New Mexico's federal congressional delegation and with national advocacy organizations to coordinate messaging and strategy around protecting Medicaid, SNAP, and other critical public benefits programs.

Ensuring that the benefits programs are administered in accordance with federal law and in an efficient way so that we have a well-functioning safety net should states begin to have more programmatic responsibility.

Exploring opportunities to use New Mexico's existing Human Rights Act to leverage more effective state-based enforcement of civil rights law in order to counter the anticipated rollback of federal enforcement.

Monitoring and responding to threats to immigrant eligibility for public benefits and addressing discrimination in the administration of these programs.

Pushing state and local government agencies to develop rules and procedures to better utilize state labor laws that often go unenforced.

Providing trainings and other support around minimum wage enforcement to help fill the gaps in services no longer offered by the U.S. Department of Labor.

Educating state and local government agencies that enforce worker protection laws that they should not collaborate with federal immigration officials and should not collect or document information about clients' immigration status.

Conducting outreach with immigrant workers to inform them of their rights and make it clear that it is safe to report workplace abuses and violations of law.

Litigating our lawsuit, *Yazzie et al v. the State of New Mexico*, which has the capacity to dramatically increase the amount of state funding that is available to school districts and to improve educational programming for particularly vulnerable student groups.

Building a coalition of stakeholders to ensure that our constituents and allies are at the center of planning to improve education, and mobilizing this coalition to steer state policy to benefit low-income and at-risk students.

Thank you very much for your ongoing support of the Center's advocacy, which will help make this work possible. Please feel free to call on us for additional information as you assess these new realities, what they mean for New Mexican families, and how to respond. We look forward to our ongoing and evolving partnership as we work together to serve the people of our state.