LESSONS IN FAILURE FROM NEW MEXICO

CARA State Implementation in New Mexico: A “Public Health” Approach + Experiment Gone Wrong, with Deadly Consequences

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FOX NEWS channel

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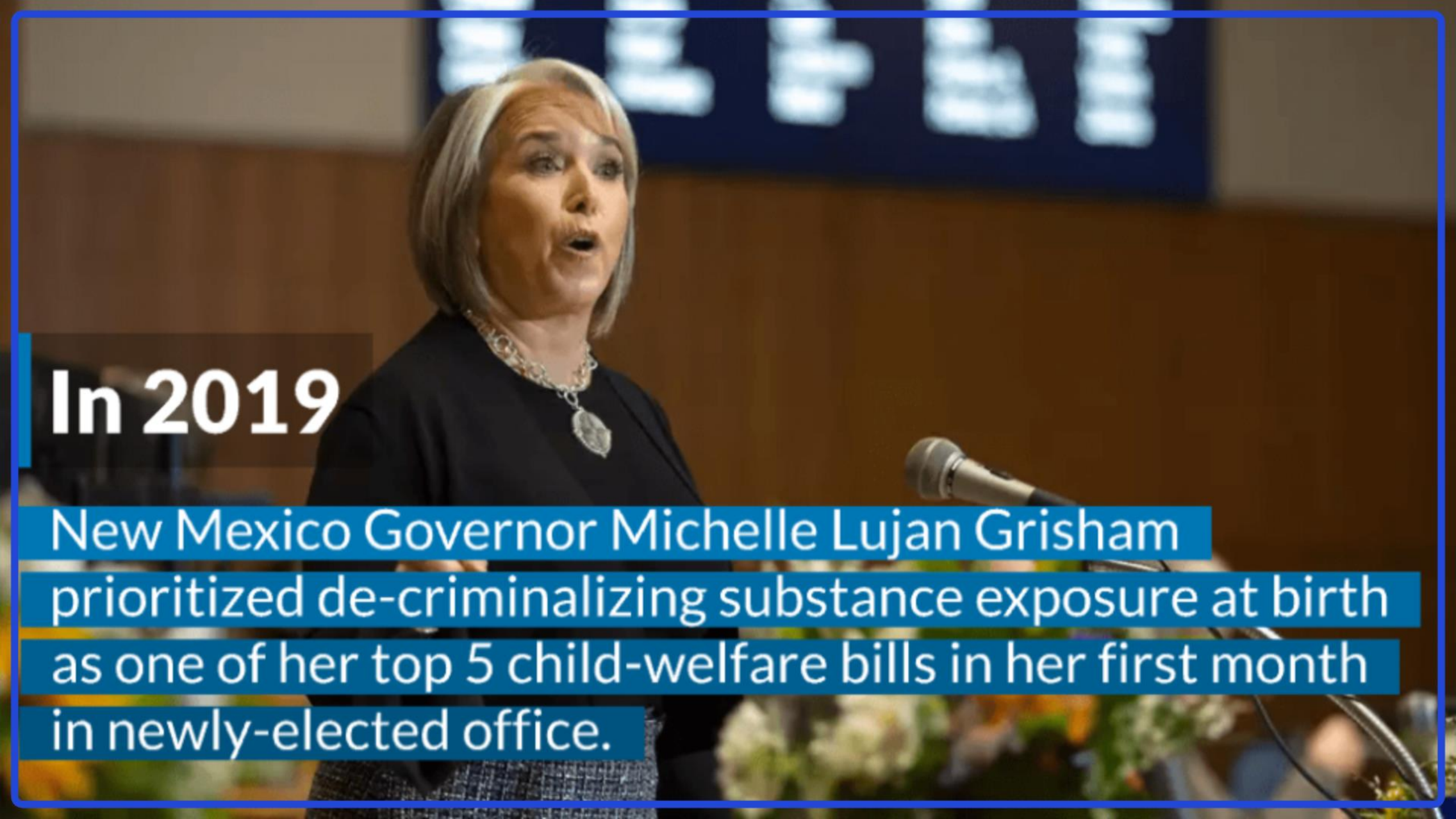
Hospitals in this state are no longer required to report all substance-exposed babies


In 2019
New Mexico Governor Michelle Lujan Grisham prioritized de-criminalizing substance exposure at birth as one of her top 5 child-welfare bills in her first month in newly-elected office.

From the 2019 House Floor Debate:

"I do understand the hard work that has gone into creating [NM's CARA law]. But, I do see some holes, and that's the part that is bothersome to me. This [CARA] plan that you developed doesn't really have any oversight, and you really don't know if they're going to follow through, and to me, there's no accountability."

— Former **State Rep. Kelly Fajardo** in **2019** during the HB230 House of Representatives floor debate against passing this half-baked proposal.

*Former State Rep Kelly Fajardo was one of the 20 legislators who **voted NO** on HB230 in 2019*


Despite calls from legislators saying the proposed bill, as written was "half-baked" and dangerous for children, the bill passed and went into effect 3 months later - July 1st, 2019.

Completion of an Investigation and Investigation Decision) have been modified to reflect this change:

5.1 **Substantiated:** A finding of substantiation in a child abuse or neglect investigation means the victim is under the age of 18, credible evidence exists to support the conclusion by the investigation worker a child has been abused or neglected as defined in the New Mexico children's code, a parent, guardian or custodian has been identified as the perpetrator or as failing to protect. Credible evidence may include, but is not limited to:

1. parent, guardian or custodian admission statement;
2. physical evidence;
3. collateral or witness statements and observations;
4. child disclosure;
5. ~~a child born drug exposed or affected due to illegal or illicit drug use;~~ and
5. the investigation worker's observation. [12-31-1997; 09-24-2001; 05-10-2010; 02-29-2012; 03-15-2016; 06-19-2020]

6 PLANS OF CARE FOR SUBSTANCE EXPOSED NEWBORNS: Per NMSA 32A-4-3, all substance-exposed newborns must have a plan of care created. The plan of care is a written plan created by a healthcare professional that is intended to ensure the safety and well-being of a substance-exposed newly born child by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members, or caregivers to the extent those treatment needs are relevant to the safety of the child. It is the responsibility of the investigations worker to obtain a copy of the plan of care for any substance-exposed newborn being investigated by PSD, and to work with the child's caretakers, insurance care coordinator, and service providers to establish services for the newborn and the newborn's family. Plans of care are required for both children who are placed in PSD custody as well as children who are the subject of a PSD investigation but will not be placed in PSD custody. Plans of care are included in the documentation of the investigation. If a child does not have a plan of care, the investigation worker collaborates with the PSD CARA Navigator for next steps. [06-19-2020]

If you have any questions or concerns, please contact your county office manager or Trisstin Maroney, CARA Navigator/Program Supervisor (Trisstin.Maroney@state.nm.us).

Shall not report substance exposure…

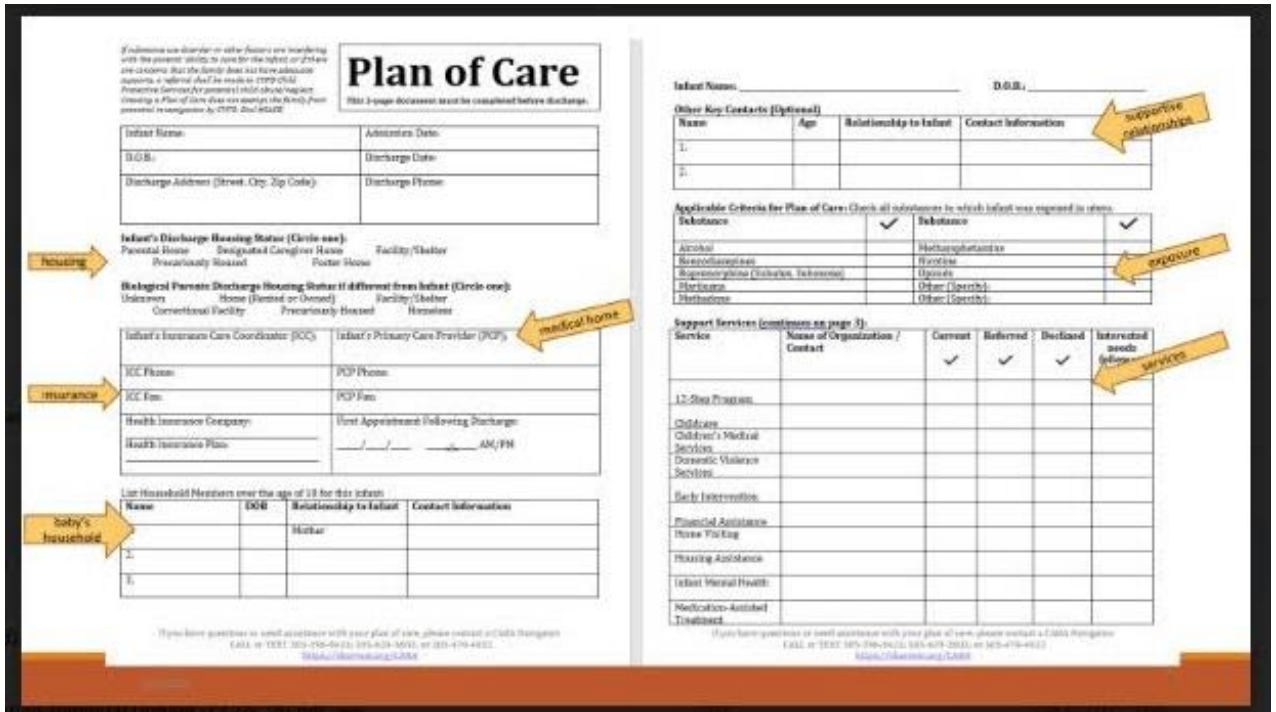
“alone”

Plan of Care

- Is developed jointly by the parent(s)* and health care provider before the newborn leaves the hospital
- Encourages discussion about parent and family resources and strengths, needs, and priorities
- Is voluntary-- families can choose services that they want or need and decline others; families may decline the POC entirely

Two Generation Care Model

*The POC most often is created with the newborn's parent(s), but can be written with kinship guardians, designated caregivers, or resource (foster) caregiv



Plan of Care

housing

insurance

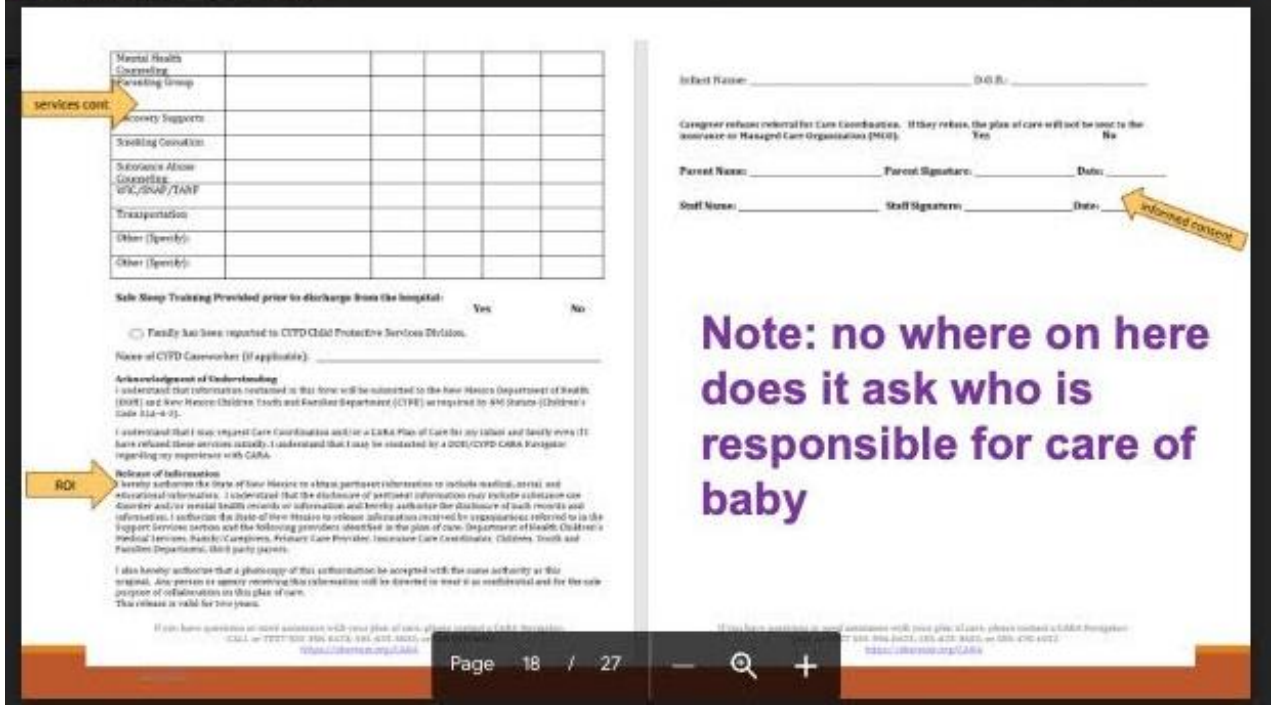
baby's household

medical home

supportive relationships

exposure

services



services cont.

ROI

Note: no where on here does it ask who is responsible for care of baby

informed consent

A “public health” approach, 100% voluntary.

CARA IMPLENTATION AT NEW MEXICO STATE LEVEL

1. Hospitals create and report POCs (Plans of Care) for all substance exposed newborns;
2. Federally required data around prenatal substance exposures are tracked and reported;
3. Care coordination is provided through the family’s insurance provider (primarily Medicaid MCOs) in order to facilitate access to needed services; and
4. “**A non-punitive approach to prenatal substance exposure by not requiring an automatic referral to Statewide Central Intake at CYFD for child abuse/neglect in the event a prenatal substance exposure is established.”**

The first two components related to reporting are processes that fulfill federal CARA/CAPTA legislation requirements. The second two components are New Mexico specific and aim to improve outcomes for families with a substance exposed newborn.

So, you ask … how is this CARA experiment going in New Mexico?

Editorial: 4 years in, CYFD has no handle on drug-exposed babies

By Albuquerque Journal Editorial Board May 24, 2023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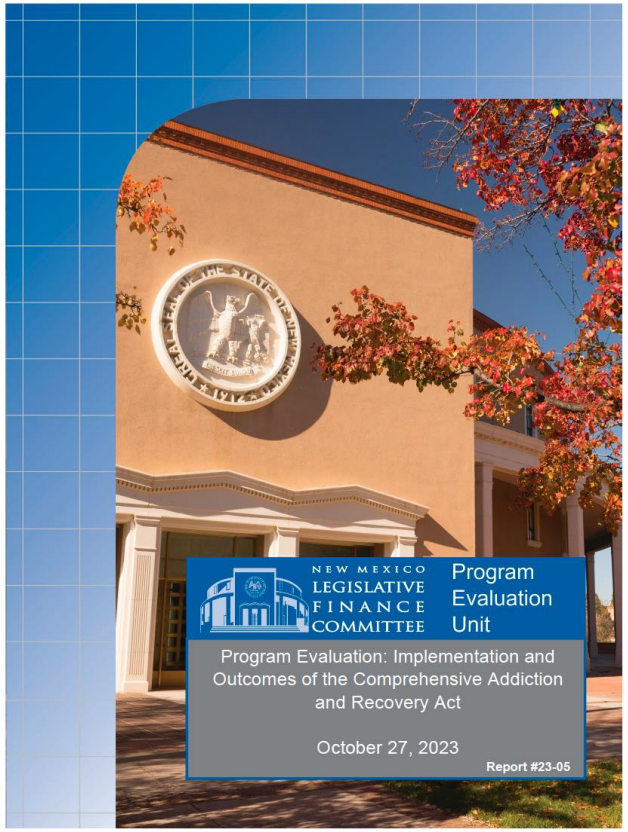
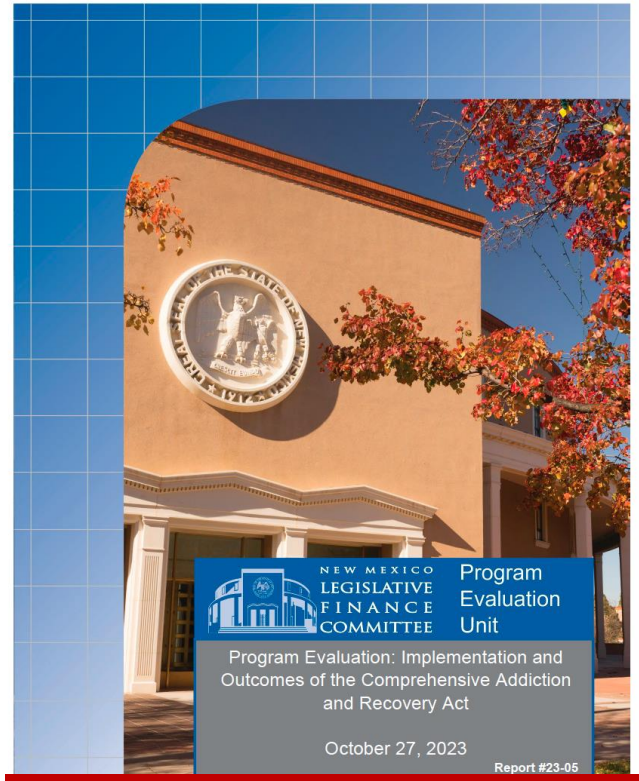
And, so, what have we learned?

“The state’s implementation of its CARA policy has substantive gaps.”

Legislative Committee Evaluation of CARA, October 27, 2023



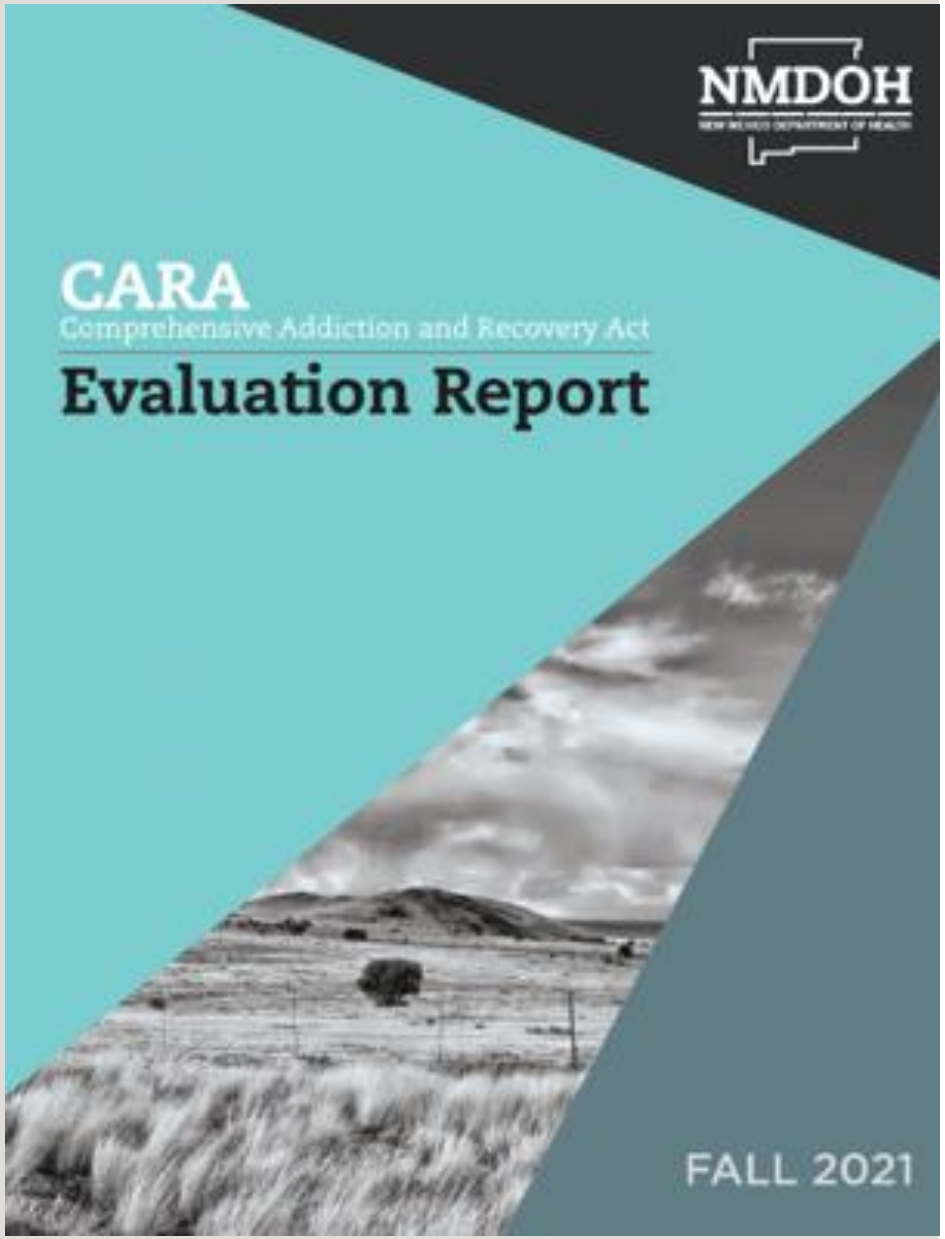
- Under Reporting substance exposure by at least 40% (no universal screenings)
- Majority of families on *voluntary* Plans of Care are **NOT receiving services**
- The "plan of care" is entirely **VOLUNTARY and families are declining entirely**
- Mandated reporters at hospitals **"Shall not report"** substance exposure "alone"
- **Not monitoring / no support after plan has been written**



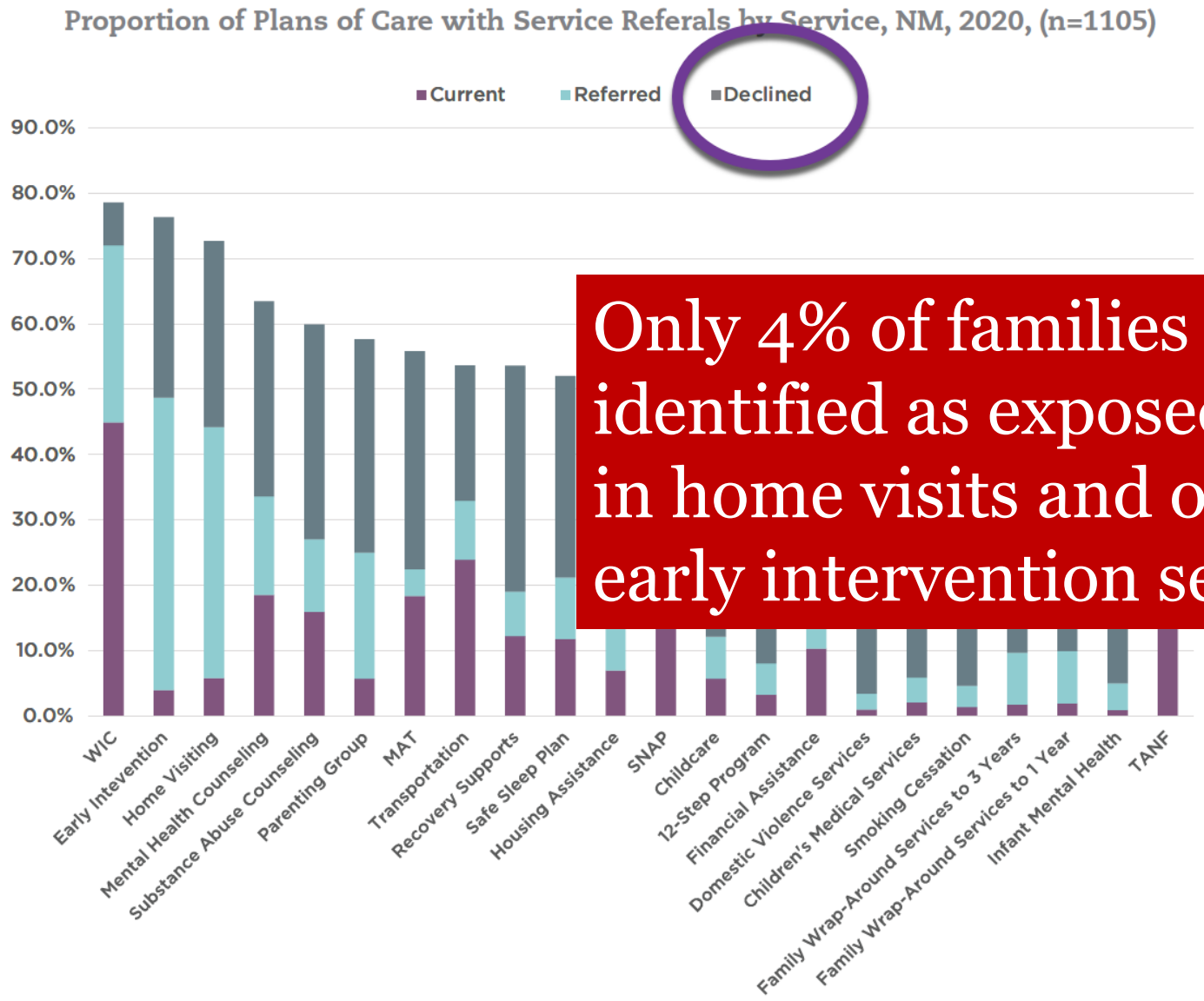
Roughly 1-in-7 CARA families is receiving substance use treatment services.

The state is not currently tracking CARA families' utilization of substance use treatment, other service referrals, or longer-term utilization of preventive healthcare. Service referrals on a plan of care are primarily directed to the mother and infant but can also include family members and other caregivers. Although engaging with a plan of care and the supportive services is completely voluntary, half of families with a plan of care are not being referred to any type of substance use treatment by hospital staff, and when hospital staff do refer to substance use treatment services, 2-in-5 families decline those services. There may be certain cases where substance abuse treatment is not required and cannabis use cases may account for a portion of the high number of families not receiving substance abuse treatment. For instance, 63 percent of cannabis only cases were not referred to any type of substance abuse treatment. However, amongst cases who only used illicit substances (excluding all cannabis use) 43 percent were not referred to any type of

Almost half of families with a POC are *not* referred to substance use treatment and less than 15% of those families have actually accepted referrals.



A survey was conducted with families who received a Plan of Care between April and September of 2020. 15.6% (n=91) of families completed the survey at an average of 11 months follow up. Results showed that 41.8% of families did not know what a Plan of Care was or had no one talk to them about it in the hospital. In addition, 57.1% of families completing the survey either were not contacted by a care coordinator or refused services. In comparison, Medicaid MCO reporting showed that 32.3% of families had either not been able to be contacted or refused care coordination in the same time period. The reported proportions differ, but they still indicate a possible need for greater rates of care coordination utilization. 75% of families that refused care coordination and provided a reason said they had supports in place, or just didn't need help.



Only 4% of families with a newborn identified as exposed to drugs participated in home visits and only 26% participated in early intervention services

New Mexico's CARA law does not include monitoring of family's follow-through with plans of care, a recommended best practice.

Thirteen states, but not New Mexico, require their state's child welfare department to monitor the implementation of plans of care to ensure steps are completed by the parent. New Mexico is one of 42 states that statutorily require healthcare providers to notify the state's child protective services (CPS) when they are involved in the delivery or care of infants who show evidence at birth of having been prenatally exposed to drugs, alcohol, or other controlled substances. While the notification to CPS is required by the federal Child Abuse Prevention Treatment Act (CAPTA), New Mexico is one of only 14 states that have laws or policies that make clear that a notification is not considered a report of child abuse or neglect unless there is evidence of maltreatment or risk of harm to the infant. New Mexico is also one of 10 states that require the child welfare department to collect data required to meet federal and state reporting requirements. However, New Mexico is not one of 13 states that have statute or policies that require the child welfare department to monitor the implementation of a plan of safe care to ensure that the specific action steps are completed.[xviii]

Table 5. Children's Bureau Recommended Best Practices for States Implementing Plans of Care

Recommended Best Practice for Implementing Plans of Care	NM Statute
A notification is not considered a report of child abuse or neglect unless there is evidence of maltreatment or risk of harm to the infant.	✓
On receiving a notification of an infant with prenatal substance exposure, the CPS agency makes an initial assessment to determine whether the infant meets the state's definition of child abuse or neglect.	A report to SCI is required for a CYFD assessment
A plan of care should be developed to address the safety, health, and substance use disorder treatment needs for any infant identified as substance-affected as well as the treatment needs of the parent or caregiver.	✓
A plan of care can be initiated by the healthcare provider at the birth hospital as part of the discharge process to ensure the infant will receive appropriate care in the home.	✓
Plans of care should be designed to meet both the short- and long-term needs of the infant, parent, caregivers, and family with the goal of strengthening the family and keeping the child safely at home.	✓
The child welfare department should monitor the implementation of a plan of care to ensure the specific action steps are completed.	X
Data should be collected in the plan of care to meet federal and state reporting requirements.	✓

Source: Children's Bureau

Final Thoughts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4 INVESTIGATES
Officer: You used about two pills?
Elisa Renova: (nods)
H100354/WBRANN N34/03/15 W106/53/36 0KM/H 2022/06/21 14:48:47

NEW MEXICO NEWS

Socorro mom charged with child abuse following baby's overdose death

by: Jordan Honeycutt
Posted: Jun 30, 2022 / 08:52 PM MDT
Updated: Jul 5, 2022 / 07:21 AM MDT


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aúl Torrez
exico Attorney General