APPROVED
APRIL 9, 2024
BY GOVERNOR

CHAPTER
597
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-FOUR

H.P. 197 - L.D. 299

An Act to Correct Language Related to Medicaid Coverage for Children

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2127, sub-§2, ¶E, as corrected by RR 2021, c. 2, Pt. A, §59, is amended to read:

E. Implement a patient screening process to determine patient eligibility for Medicaid, the ~~Cub Care program~~ Children's Health Insurance Program under section 3174-T and the sliding fee scale; and

Sec. 2. 22 MRSA §2127, sub-§6, as corrected by RR 2021, c. 2, Pt. A, §60, is amended to read:

6. Coordination with Medicaid and the Cub Care program. The department shall coordinate assistance under this chapter with Medicaid and the ~~Cub Care program~~ Children's Health Insurance Program under section 3174-T in a manner most likely to obtain and maximize federal matching funds.

Sec. 3. 22 MRSA §3173-K, first ¶, as enacted by PL 2023, c. 31, §1, is amended to read:

To promote public health and the health of MaineCare members, the department may authorize standing orders for the dispensing of vaccines as described in Title 32, section 13831 and nonprescription drugs as defined in Title 32, section 13702-A, subsection 20 that support access to preventive care and medically necessary services for Medicaid recipients as defined in section 3172, subsection 3; participants in the state-funded medical program for noncitizens under section 3174-FFF; elderly low-cost drug program enrollees as defined in section 254-D, subsection 1, paragraph B; qualified residents as defined in section 2681, subsection 2, paragraph F; and persons receiving benefits under the ~~Cub Care program~~ Children's Health Insurance Program under section 3174-T.

Sec. 4. 22 MRSA §3174-B, sub-§3, as enacted by PL 1999, c. 731, Pt. AA, §2, is amended to read:

3. Monthly expenditure projections. The commissioner shall prepare a monthly report detailing all expenditures in the Medical Care - Payments to Providers program for

each month of every fiscal year. This document must include sufficient detail, including expenditures by fund and category of service, for the month as well as historical data, fiscal year-to-date amounts and projections for the remainder of the biennium and the ensuing biennium. The report also must include monthly statistics on the number of individuals eligible for Medicaid and ~~Cub Care~~ Children's Health Insurance Program benefits. The report must be submitted to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters no later than 15 days following the end of each month.

Sec. 5. 22 MRSA §3174-G, sub-§1, ¶B, as amended by PL 2021, c. 635, Pt. CCC, §1, is further amended to read:

B. ~~An infant~~ A person under ~~one year~~ 21 years of age when the ~~infant's~~ person's family income is equal to or below ~~200%~~ 300% of the nonfarm income official poverty line~~, except that the department may adopt a rule that provides that infants in families with income over 185% and equal to or below 300% of the nonfarm income official poverty line who meet the eligibility requirements of the Cub Care program established under section 3174-T are eligible to participate in the Cub Care program instead of Medicaid~~. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

Sec. 6. 22 MRSA §3174-G, sub-§1, ¶D, as amended by PL 2021, c. 635, Pt. CCC, §2, is repealed.

Sec. 7. 22 MRSA §3174-G, sub-§1, ¶E, as amended by PL 2011, c. 477, Pt. Z, §1, is further amended to read:

E. On or before September 30, 2012, the parent or caretaker relative of a child described in paragraph B ~~or D~~ when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph and, beginning October 1, 2012, the parent or caretaker relative of a child described in paragraph B ~~or D~~ when the child's family income is equal to or below 133% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as on or before September 30, 2012 the income limit does not exceed 200% of the nonfarm income official poverty line and, beginning October 1, 2012, the income limit does not exceed 133% of the nonfarm income official poverty line;

Sec. 8. 22 MRSA §3174-G, sub-§1, ¶E, as amended by PL 2011, c. 657, Pt. Z, §1 and affected by §2, is further amended to read:

E. On or before September 30, 2012, the parent or caretaker relative of a child described in paragraph B ~~or D~~ when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph and, beginning October 1, 2012, the parent or caretaker relative of a child described in paragraph B ~~or D~~ when the child's family income is equal to or below 100% of the nonfarm income official poverty line. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as on or before September 30, 2012 the income limit does not exceed 200% of the nonfarm income official poverty line;

Sec. 9. 22 MRSA §3174-G, sub-§1-D, as enacted by PL 2007, c. 539, Pt. NNN, §1, is amended to read:

1-D. Enrollment fee. The department may assess an annual enrollment fee of $25 for participation in the MaineCare program for a family including a parent or caretaker relative of a child described in subsection 1, paragraph B ~~or D~~ when the family's income exceeds 150% of the nonfarm income official poverty line.

Sec. 10. 22 MRSA §3174-G, sub-§4, as enacted by PL 2019, c. 485, §2, is amended to read:

4. Transitional Medicaid. The department shall administer a program of transitional Medicaid to families receiving benefits under Section 1931 of the federal Social Security Act in accordance with 42 United States Code, Section 1396r-6 and this subsection. The amount, duration and scope of services provided under this subsection must be the same as that provided to a parent or caretaker relative of a child described in subsection 1, paragraph B ~~or D~~.

A. The department shall provide transitional Medicaid for a 12-month extension period in accordance with 42 United States Code, Section 1396r-6, Subsection (a), Paragraph (5) to families whose eligibility for Medicaid assistance terminated due to an increase in earned income, an increase in hours of employment or a loss of a time-limited earnings disregard.

B. The department shall provide transitional Medicaid for 4 months to families whose eligibility for Medicaid assistance terminated due to an increase in the amount of child support received by the family.

Sec. 11. 22 MRSA §3174-T, as amended by PL 2023, c. 405, Pt. A, §62, is further amended to read:

§3174-T. ~~Cub Care program~~ Children's Health Insurance Program

1. Program established. The ~~Cub Care program~~ Children's Health Insurance Program is established to provide health coverage for low-income children who are ineligible for benefits under the Medicaid program and who meet the requirements of subsection 2 ~~or 2-A~~. The purpose of the ~~Cub Care program~~ Children's Health Insurance Program is to provide health coverage to as many children as possible within the fiscal constraints of the program budget and without forfeiting any federal funding that is available to the State for the State Children's Health Insurance Program through the federal Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251, referred to in this section as the Balanced Budget Act of 1997.

2. Eligibility; enrollment. Health coverage under the ~~Cub Care program~~ Children's Health Insurance Program is available to children under 19 years of age ~~whose family income is above the eligibility level for Medicaid under section 3174-G and below the maximum eligibility level established under paragraphs A and B and~~ who meet the requirements set forth in paragraph C.

A. The ~~maximum eligibility level, subject to adjustment by the commissioner under paragraph B, is 300% of the nonfarm income official poverty line~~ department may adopt rules regarding federal funding of the program within federal guidelines up to the maximum eligibility levels described under section 3174-G.

B. If the commissioner has determined the fiscal status of the ~~Cub Care program~~ Children's Health Insurance Program under subsection 8 and has determined that an adjustment in the maximum eligibility level is required under this paragraph, the commissioner shall adjust the maximum eligibility level in accordance with the requirements of this paragraph.

(1) The adjustment must accomplish the purposes of the ~~Cub Care program~~ Children's Health Insurance Program set forth in subsection 1.

(3) If ~~Cub Care program~~ Children's Health Insurance Program expenditures are reasonably anticipated to fall below the program budget, the commissioner shall raise the maximum eligibility level set in paragraph A to the extent necessary to provide coverage to as many children as possible within the fiscal constraints of the program budget. If ~~Cub Care program~~ Children's Health Insurance Program expenditures are reasonably anticipated to exceed the program budget after raising the maximum eligibility level pursuant to this subparagraph, the commissioner may lower the maximum eligibility level ~~to the level established in paragraph A~~.

(4) The commissioner shall give at least 30 days' notice of the proposed change in maximum eligibility level to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

C. All children resident in the State are eligible except a child who:

(1) Is eligible for coverage under the Medicaid program;

(2) Is covered under a group health insurance plan or under health insurance, as defined in Section 2791 of the federal Public Health Service Act, 42 United States Code, Section 300gg(c) (Supp. 1997); or

(4) Is ~~an inmate~~ a resident in a public institution or a patient in an institution for mental diseases.

(5) Within the 3 months prior to application for coverage under the ~~Cub Care program~~ Children's Health Insurance Program, was insured or otherwise provided coverage under an employer-based health plan for which the employer paid 50% or more of the cost for the child's coverage, except that this subparagraph does not apply if:

(a) The cost to the employee of coverage for the family exceeds 10% of the family's income;

(b) The parent lost coverage for the child because of a change in employment, termination of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, COBRA, of the Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Sections 1161 to 1168 (Supp. 1997) or termination for a reason not in the control of the employee; or

(c) The department has determined that grounds exist for a good-cause exception.

D. Notwithstanding changes in the maximum eligibility level determined under paragraph B, the following requirements apply to enrollment and eligibility:

(1) Children must be enrolled for 12-month enrollment periods. Prior to the end of each 12-month enrollment period the department shall redetermine eligibility for continuing coverage; and

(2) Children of higher family income may not be covered unless children of lower family income are also covered. This subparagraph may not be applied to disqualify a child during the 12-month enrollment period. Children of higher family income may be disqualified at the end of the 12-month enrollment period if the commissioner has lowered the maximum eligibility level under paragraph B.

E. Coverage under the ~~Cub Care program~~ Health Insurance Purchase Option of the Children's Health Insurance Program may be purchased for children under 19 years of age described in subparagraphs (1) and (2) for a period of up to 18 months as provided in this paragraph at a premium level that is revenue neutral and that covers the cost of the benefit and a contribution toward administrative costs no greater than the maximum level allowable under the Consolidated Omnibus Budget Reconciliation Act of 1985, COBRA, of the Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Sections 1161 to 1168 (Supp. 1997). The department shall adopt rules to implement this paragraph. The following children are eligible to enroll under this paragraph:

(1) A child who is enrolled under paragraph A or B and whose family income at the end of the child's 12-month enrollment term exceeds the maximum allowable income set in that paragraph; and

(2) A child who is enrolled in the Medicaid program and whose family income exceeds the limits of that program. The department shall terminate Medicaid coverage for a child who enrolls in the ~~Cub Care program~~ Children's Health Insurance Program under this subparagraph.

F. The department may not apply an asset test to a child or child's family when the child is otherwise eligible for the ~~Cub Care program~~ Children's Health Insurance Program under this section.

~~**2-A. Persons 19 and 20 years of age.** Health coverage under the Cub Care program is available to a person 19 or 20 years of age whose family income is above the eligibility level for Medicaid under section 3174-G and below the maximum eligibility level established under subsection 2, paragraphs A and B and who meets the requirements set forth in subsection 2, paragraph C. All the requirements of eligibility, program administration, benefit delivery and outreach established in this section apply to persons 19 and 20 years of age.~~

3. Program administration; benefit design. With the exception of any requirements imposed under this section, the ~~Cub Care program~~ Children's Health Insurance Program must be integrated with the Medicaid program and administered with it in one administrative structure within the department, with the same enrollment and eligibility processes, benefit package and outreach and in compliance with the same laws and policies as the Medicaid program, except when those laws and policies are inconsistent with this section and the Balanced Budget Act of 1997. The department shall adopt and promote a simplified eligibility form and eligibility process.

4. Benefit delivery. The ~~Cub Care program~~ Children's Health Insurance Program must use, but is not limited to, the same benefit delivery system as the Medicaid program, providing benefits through the same health plans, contracting process and providers. Copayments and deductibles may not be charged for benefits provided under the program.

5. Premium payments. Premiums must be paid in accordance with this subsection.

A. Premiums must be paid at the beginning of each month for coverage for that month according to the following scale:

(1) Families with incomes between 150% and 160% of the federal nonfarm income official poverty line pay premiums of 5% of the benefit cost per child, but not more than 5% of the cost for 2 children;

(2) Families with incomes between 160% and 170% of the federal nonfarm income official poverty line pay premiums of 10% of the benefit cost per child, but not more than 10% of the cost for 2 children;

(3) Families with incomes between 170% and 185% of the federal nonfarm income official poverty line must pay premiums of 15% of the benefit cost per child, but not more than 15% of the cost for 2 children; and

(4) Families with incomes between 185% and 200% of the federal nonfarm income official poverty line must pay premiums of 20% of the benefit cost per child, but not more than 20% of the cost for 2 children.

B. When a premium is not paid at the beginning of a month, the department shall give notice of nonpayment at that time and again at the beginning of the 6th month of the 6-

month enrollment period if the premium is still unpaid, and the department shall provide an opportunity for a hearing and a grace period in which the premium may be paid and no penalty will apply for the late payment. If a premium is not paid by the end of the grace period, coverage must be terminated unless the department has determined that waiver of premium is appropriate under paragraph D. The grace period is determined according to this paragraph.

(1) If nonpayment is for the first, 2nd, 3rd, 4th or 5th month of the 6-month enrollment period, the grace period is equal to the remainder of the 6-month enrollment period.

(2) If nonpayment is for the 6th month of the 6-month enrollment period, the grace period is equal to 6 weeks.

C. A child whose coverage under the ~~Cub Care program~~ Children's Health Insurance Program has been terminated for nonpayment of premium and who has received coverage for a month or longer without premium payment may not reenroll until after a waiting period that equals the number of months of coverage under the ~~Cub Care program~~ Children's Health Insurance Program without premium payment, not to exceed 3 months.

D. The department shall adopt rules allowing waiver of premiums for good cause.

6. Incentives. In the contracting process for the ~~Cub Care program~~ Children's Health Insurance Program and the Medicaid program, the department shall create incentives to reward health plans that contract with school-based clinics, community health centers and other community-based programs.

7. Administrative costs. The department shall budget 2% of the costs of the ~~Cub Care program~~ Children's Health Insurance Program for outreach activities. After the first 6 months of the program and to the extent that the program budget allows, the department may expend up to 3% of the program budget on activities to increase access to health care. In addition, the department shall apply for additional federal funds available for Medicaid outreach activities. The goal of outreach activities under this subsection is to enroll 100% of children eligible for the ~~Cub Care program~~ Children's Health Insurance Program or the MaineCare program.

8. Quarterly determination of fiscal status; reports. On a quarterly basis, the commissioner shall determine the fiscal status of the ~~Cub Care program~~ Children's Health Insurance Program, determine whether an adjustment in maximum eligibility level is required under subsection 2, paragraph B and report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters on the following matters:

A. Enrollment approvals, denials, terminations, reenrollments, levels and projections. With regard to denials, the department shall gather data from a statistically significant sample and provide information on the income levels of children who are denied eligibility due to family income level;

B. ~~Cub Care program~~ Children's Health Insurance Program expenditures, expenditure projections and fiscal status;

C. Proposals for increasing or decreasing enrollment consistent with subsection 2, paragraph B;

D. Proposals for enhancing the ~~Cub Care program~~ Children's Health Insurance Program;

E. Any information the department has from the ~~Cub Care program~~ Children's Health Insurance Program or from the Department of Professional and Financial Regulation, Bureau of Insurance or the Department of Labor on employer health coverage and insurance coverage for low-income children;

F. The use of and experience with the ~~purchase option~~ Health Insurance Purchase Option under subsection 2, paragraph E; and

G. ~~Cub Care program~~ Children's Health Insurance Program administrative costs.

9. Provisions applicable to federally recognized Indian tribes. After consultation with federally recognized Indian nations, tribes or bands of Indians in the State, the commissioner shall adopt rules regarding eligibility and participation of children who are members of a nation, tribe or band, consistent with Title 30, section 6211, in order to best achieve the goal of providing access to health care for all qualifying children within program requirements, while using all available federal funds.

10. Rulemaking. The department shall adopt rules in accordance with Title 5, chapter 375 as required to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

11. ~~Cub Care~~ Children's Health Insurance Program drug rebate ~~program~~ agreement. Effective October 1, 1999, the department shall enter into a drug rebate agreement with each manufacturer of prescription drugs that results in a rebate equal to that which would be achieved under the federal Social Security Act, Section 1927.

12. Premium rate review; adjustment. Effective July 1, 2004, the department shall periodically evaluate the amount of premiums charged under this section to ensure that the premiums charged reflect the most current benefit cost per child. The commissioner shall adjust the premiums by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 12. 22 MRSA §3174-U, as enacted by PL 1999, c. 301, §1, is amended to read:

§3174-U. Medicaid reimbursement for dental services

The department shall conduct an annual review of the adequacy of reimbursement rates for dental services for dentists who provide care for a disproportionate number of patients whose care is reimbursed through the Medicaid program and the ~~Cub Care program~~ Children's Health Insurance Program established in section 3174-T. By December 31, 1999, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the results of the study, including the costs in General Fund and other money.

Sec. 13. 22 MRSA §3174-X, sub-§1, ¶A, as enacted by PL 2015, c. 511, §1, is amended to read:

A. "Children's health insurance program" means the state children's health insurance program under Title XXI of the Social Security Act. "Children's health insurance

program" includes the ~~Cub Care~~ program~~, which is~~ established in section 3174-T, the federal Children's Health Insurance Program, or CHIP, and the federal State Children's Health Insurance Program, or S-CHIP.

Sec. 14. 22 MRSA §3174-BB, sub-§1, as enacted by PL 2001, c. 450, Pt. A, §4, is amended to read:

1. Children. In the Medicaid program and the ~~Cub Care program~~ Children's Health Insurance Program under section 3174-T, the enrollment period for children under 19 years of age must be 12 months.

Sec. 15. 22 MRSA §3174-NNN is enacted to read:

§3174-NNN. MaineCare eligibility for persons under 21 years of age

The department may seek authority from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services using a state plan option or a waiver through the Medicaid program or the federal State Children's Health Insurance Program to reduce barriers to coverage or increase MaineCare eligibility for persons under 21 years of age.

Sec. 16. 24 MRSA §2332-A, sub-§2, as amended by PL 2005, c. 683, Pt. A, §38, is further amended to read:

2. Medicaid and ~~Cub Care programs~~ Children's Health Insurance Program. Nonprofit service organizations may not consider the availability or eligibility for medical assistance under 42 United States Code, Section 13969, referred to as "Medicaid," or Title 22, section 3174-T, referred to as the "~~Cub Care program~~ Children's Health Insurance Program," when considering coverage eligibility or benefit calculations for subscribers and covered family members.

A. To the extent that payment for coverage expenses has been made under the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program for health care items or services furnished to an individual, the State is considered to have acquired the rights of the covered subscriber or family member to payment by the nonprofit service organization for those health care items or services. Upon presentation of proof that the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program has paid for covered items or services, the nonprofit service organization shall make payment to the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program according to the coverage provided in the contract or certificate.

B. A nonprofit service organization may not impose requirements on a state agency that has been assigned the rights of an individual eligible for Medicaid or ~~Cub Care~~ Children's Health Insurance Program coverage and covered by a subscriber contract that are different from requirements applicable to an agent or assignee of any other covered individual.

Sec. 17. 24-A MRSA §2844, sub-§2, as amended by PL 2005, c. 683, Pt. A, §41, is further amended to read:

2. Medicaid and ~~Cub Care programs~~ Children's Health Insurance Program. Insurers may not consider the availability or eligibility for medical assistance under 42 United States Code, Section 13969, referred to as "Medicaid," or Title 22, section 3174-T,

referred to as the "~~Cub Care program~~ Children's Health Insurance Program," when considering coverage eligibility or benefit calculations for insureds and covered family members.

A. To the extent that payment for coverage expenses has been made under the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program for health care items or services furnished to an individual, the State is considered to have acquired the rights of the insured or family member to payment by the insurer for those health care items or services. Upon presentation of proof that the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program has paid for covered items or services, the insurer shall make payment to the Medicaid program or the ~~Cub Care program~~ Children's Health Insurance Program according to the coverage provided in the contract or certificate.

B. An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for Medicaid or ~~Cub Care~~ Children's Health Insurance Program coverage and covered by a subscriber contract that are different from requirements applicable to an agent or assignee of any other covered individual.

Sec. 18. 24-A MRSA §2849-B, sub-§3, ¶C-1, as amended by PL 2005, c. 683, Pt. A, §42, is further amended to read:

C-1. That person was covered by the ~~Cub Care program~~ Children's Health Insurance Program under Title 22, section 3174-T, and the request for replacement coverage is made while coverage is in effect or within 30 days from the termination of coverage; or

Sec. 19. 32 MRSA §18377, sub-§4, as amended by PL 2019, c. 388, §10, is further amended to read:

4. Dental coverage and reimbursement. Notwithstanding Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the ~~Cub Care program~~ Children's Health Insurance Program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental therapist authorized to practice under this chapter.