

HOUSE BILL NO. 251

INTRODUCED BY M. CAFERRO

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A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE MEDICAID BUY-IN PROGRAM TO INCLUDE CHILDREN WITH PHYSICAL OR DEVELOPMENTAL DISABILITIES; EXTENDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 53-6-113, 53-6-131, AND 53-6-195, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and
- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of



1 particular services.

2 (5) The department may provide by rule for payment by a recipient of a portion of the reimbursements
3 established by the department for services provided under this part.

4 (6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana
5 medicaid program, including the medicaid buy-in program provided for in 53-6-195. Rules may include but are
6 not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial
7 criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant
8 and recipient information, and cooperation with the state agency administering the child support enforcement
9 program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

10 (b) The department may not apply financial criteria below \$15,000 for resources other than income in
11 determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage
12 groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

13 (c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a
14 couple for resources other than income in determining the eligibility of individuals for under 53-6-195(1)(a) for the
15 medicaid buy-in program for workers with disabilities ~~provided for in 53-6-195.~~

16 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
17 in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or
18 if funds appropriated are not sufficient to provide medical care for all eligible persons.

19 (8) The department may adopt rules necessary for the administration of medicaid managed care
20 systems. Rules to be adopted may include but are not limited to rules concerning:

21 (a) participation in managed care;

22 (b) selection and qualifications for providers of managed care; and

23 (c) standards for the provision of managed care.

24 (9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for
25 extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who
26 lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the
27 department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended
28 medical assistance will be provided. The department, in exercising its discretion to set income limits and duration
29 of assistance, may consider the amount of funds appropriated by the legislature.

30 (10) Unless required by federal law or regulation, the department may not adopt rules that exclude a child

1 from medicaid services or require prior authorization for a child to access medicaid services if the child would be
2 eligible for or able to access the services without prior authorization if the child was not in foster care."

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4 **Section 2.** Section 53-6-131, MCA, is amended to read:

5 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may
6 be granted to a person who is determined by the department of public health and human services, in its
7 discretion, to be eligible as follows:

8 (a) The person receives or is considered to be receiving supplemental security income benefits under
9 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess
10 of the applicable medical assistance limits.

11 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if that
12 person were to apply for that assistance.

13 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the
14 person would be receiving assistance under the program in subsection (1)(a).

15 (d) The person is:

16 (i) under 21 years of age and in foster care under the supervision of the state or was in foster care under
17 the supervision of the state and has been adopted as a child with special needs; or

18 (ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

19 (e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

20 (i) the person's income does not exceed the income level specified for federally aided categories of
21 assistance and the person's resources are within the resource standards of the federal supplemental security
22 income program; or

23 (ii) the person, while having income greater than the medically needy income level specified for federally
24 aided categories of assistance:

25 (A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically
26 needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the
27 department the amount by which the person's income exceeds the medically needy income level specified for
28 federally aided categories of assistance; and

29 (B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the
30 person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal

1 supplemental security income program; or

2 (II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person
3 is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the
4 resource standards adopted by the department.

5 (f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

6 (g) The person is under 19 years of age and lives with a family having a combined income that does not
7 exceed 185% of the federal poverty level. The department may establish lower income levels to the extent
8 necessary to maximize federal matching funds provided for in 53-4-1104.

9 (2) (a) The department may establish income and resource limitations. Limitations of income and
10 resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise
11 applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy
12 Montana kids plan provided for in 53-4-1104.

13 (b) The department may not count as a resource an individual retirement account that was established
14 by a person participating in the medicaid buy-in program ~~for workers with disabilities~~ provided for in 53-6-195 if:

15 (i) the person is no longer eligible for coverage under 53-6-195; and

16 (ii) the individual retirement account was established during the time the person was eligible for, under
17 53-6-196(1)(a), and receiving benefits through the medicaid program for workers with disabilities.

18 (3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for
19 medicaid-eligible persons participating in the medicare program and may, within the discretion of the department,
20 pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible
21 person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus
22 Budget Reconciliation Act of 1989, Public Law 101-239, who:

23 (a) has income that does not exceed income standards as may be required by the Social Security Act;
24 and

25 (b) has resources that do not exceed standards that the department determines reasonable for purposes
26 of the program.

27 (4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and
28 similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

29 (5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department
30 of health and human services, the department of public health and human services may grant eligibility for basic

1 medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined
2 in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program.
3 A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C.
4 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

5 (6) The department, under the Montana medicaid program, may provide, if a waiver is not available from
6 the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42
7 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may
8 be designated by the act for receipt of assistance.

9 (7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants
10 and pregnant women whose family income does not exceed income standards adopted by the department that
11 comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards
12 that the department determines reasonable for purposes of the program.

13 (8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit
14 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to
15 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other
16 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

17 (9) A person described in subsection (7) must be provided continuous eligibility for medical assistance,
18 as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

19 (10) Full medical assistance under the Montana medicaid program may be granted to an individual during
20 the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous
21 condition of the breast or cervix, if the individual:

22 (a) has been screened for breast and cervical cancer under the Montana breast and cervical health
23 program funded by the centers for disease control and prevention program established under Title XV of the
24 Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

25 (b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or
26 cervix;

27 (c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

28 (d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

29 (e) has not attained 65 years of age.

30 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers and

1 children with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII),
 2 (a)(10)(A)(ii)(XIX), (cc), and (r)(2) and 42 U.S.C. 1396o."

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4 **Section 3.** Section 53-6-195, MCA, is amended to read:

5 **"53-6-195. Medicaid buy-in program for workers or children with disabilities -- purpose -- eligibility**

6 **-- participant costs.** (1) If appropriations specific for this purpose are provided by the legislature and federal
 7 approval of the necessary amendments to the state medicaid plan is secured, the department shall administer
 8 a medicaid program that allows individuals with disabilities to participate in the medicaid program if:

9 (a) they obtain employment that increases their incomes above eligibility limits; or

10 (b) they are under 19 years of age and meet the requirements of subsection (5).

11 (2) Participants in the program may be required to pay a portion of the costs for participation. The
 12 purpose of the program is:

13 (a) to support employment for individuals with disabilities by providing medicaid coverage to individuals
 14 who would otherwise be ineligible for medicaid due to earnings that exceed the medicaid program's income limits;
 15 and

16 (b) to provide medical, habilitative, and rehabilitative services to children with physical or developmental
 17 disabilities at an early age to prevent or reduce their future need for services.

18 ~~(2)(3)~~ The medicaid program provided for under this section must be implemented in accordance with
 19 the provisions of 42 U.S.C 1396a(a)(10)(A)(ii)(XIII), (a)(10)(A)(ii)(XIX), (cc), and (r)(2).

20 ~~(3)(4)~~ An employed individual is eligible for the program under subsection (1)(a) if the individual:

21 (a) has a net family income that is less than 250% of the federal poverty level;

22 (b) would be categorically eligible for medicaid because the individual is disabled as defined under Title
 23 XVI of the Social Security Act, 42 U.S.C. 1382c, except that the person has or has had earnings above the level
 24 for substantial gainful activity;

25 (c) has income and resources equal to or below the income and resource limits established by the
 26 department by rule, which may be less stringent than the income and resource limits for supplemental security
 27 income benefits; and

28 (d) satisfies all other eligibility criteria established by the department by rule.

29 (5) A child is eligible for the program under subsection (1)(b) if the child:

30 (a) is considered disabled as defined in 42 U.S.C. 1382c(a)(3)(C); and

1 (b) has a combined family income of up to the maximum level allowed under 42 U.S.C.
 2 1396a(cc)(1)(C)(i).

3 ~~(4)(6)~~ The department may establish:

4 (a) requirements for the employment status of ~~participants~~ workers participating in the program, the
 5 verification of their employment status, and permissible temporary breaks in employment;

6 (b) requirements, limitations, and definitions pertaining to the income and resources of participants;

7 (c) only to the extent allowed under 42 U.S.C. 1396o and in accordance with subsection (7),
 8 requirements for payment of premiums, deductions, and cost sharing as a condition for participating in the
 9 program; and

10 (d) only to the extent required under 42 U.S.C. 1396(a)(cc)(2)(A):

11 (i) a requirement for a parent of a child eligible for the program under subsection (1)(b) to enroll in and
 12 pay premiums for family health insurance coverage if the parent's employer offers the coverage; and

13 (ii) a reduction to the premium imposed by the state by an amount that reflects the parent's premium
 14 contribution for private health insurance for a child with a disability.

15 (7) A parent of a child eligible for the Medicaid buy-in program shall pay premiums. A family's premiums
 16 and cost sharing may not exceed:

17 (a) 5% of family income for families with an income at or below 200% of the federal poverty level; or

18 (b) 7.5% of family income for families with an income above 200% of the federal poverty level.

19 ~~(5)(8)~~ The department shall, to the extent allowed by appropriations levels and under applicable state
 20 and federal law, coordinate the medicaid program provided for under this section with other state and federal
 21 programs and resources that promote opportunities for persons with disabilities to retain, regain, and maintain
 22 employment."
 23

24 **NEW SECTION. Section 4. Appropriation.** The following amounts are appropriated to the department
 25 of public health and human services for the biennium beginning July 1, 2019, for the medicaid buy-in program
 26 for children with disabilities:

27	Fiscal year 2020	\$1,835,310	federal special revenue fund
28		\$966,690	general fund
29	Fiscal year 2021	\$1,870,221	federal special revenue fund
30		\$983,336	general fund

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2 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2019.

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