

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 60

**Senator Burke
Cosponsor: Senator Roegner**

A BILL

To amend sections 5163.01, 5166.01, and 5167.03, to 1
enact sections 5166.38, 5166.381, 5166.382, 2
5166.383, and 5166.384, and to repeal sections 3
5166.37, 5166.40, 5166.401, 5166.402, 5166.403, 4
5166.404, 5166.405, 5166.406, 5166.407, 5
5166.408, and 5166.409 of the Revised Code and 6
to repeal Section 333.280 of H.B. 49 of the 7
132nd General Assembly to establish a waiver 8
component for the Medicaid expansion eligibility 9
group and to abolish the Healthy Ohio Program. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5163.01, 5166.01, and 5167.03 be 11
amended and sections 5166.38, 5166.381, 5166.382, 5166.383, and 12
5166.384 of the Revised Code be enacted to read as follows: 13

Sec. 5163.01. As used in this chapter: 14

"Caretaker relative" has the same meaning as in 42 C.F.R. 15
435.4 as that regulation is amended effective January 1, 2014. 16

~~"Expansion eligibility group" means the medicaid 17
eligibility group described in section 1902(a)(10)(A)(i)(VIII) 18~~

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| of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i) | 19 |
| (VIII). | 20 |
| "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code. | 21 22 |
| "Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code. | 23 24 |
| "Healthy start component" has the same meaning as in section 5162.01 of the Revised Code. | 25 26 |
| "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code. | 27 28 29 |
| "Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" have the same meanings as in section 5124.01 of the Revised Code. | 30 31 32 |
| "Mandatory eligibility groups" means the groups of individuals that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program. | 33 34 35 36 |
| "Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5163.09 to 5163.098 of the Revised Code. | 37 38 39 |
| "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code. | 40 41 |
| "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code. | 42 43 |
| "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code. | 44 45 |

"Optional eligibility groups" means the groups of individuals who may be covered by the medicaid state plan or a federal medicaid waiver and for whom the medicaid program receives federal financial participation.

"Other medicaid-funded long-term care services" has the meaning specified in rules adopted under section 5163.02 of the Revised Code.

"Supplemental security income program" means the program established by Title XVI of the "Social Security Act," 42 U.S.C. 1381 et seq.

Sec. 5166.01. As used in this chapter:

"209(b) option" means the option described in section 1902(f) of the "Social Security Act," 42 U.S.C. 1396a(f), under which the medicaid program's eligibility requirements for aged, blind, and disabled individuals are more restrictive than the eligibility requirements for the supplemental security income program.

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the component, that state agency or political subdivision.

"Care management system" means the system established under section 5167.03 of the Revised Code.

"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

"Expansion eligibility group" ~~has means the same meaning~~

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| as-medicaid eligibility group described in section 5163.01- | 74 |
| 1902(a)(10)(A)(i)(VIII) of the Revised Code "Social Security | 75 |
| Act," 42 U.S.C. 1396a(a)(10)(A)(i)(VIII). | 76 |
| "Federal poverty line" has the same meaning as in section | 77 |
| 5162.01 of the Revised Code. | 78 |
| "Home and community-based services medicaid waiver | 79 |
| component" means a medicaid waiver component under which home | 80 |
| and community-based services are provided as an alternative to | 81 |
| hospital services, nursing facility services, or ICF/IID | 82 |
| services. | 83 |
| "Hospital" has the same meaning as in section 3727.01 of | 84 |
| the Revised Code. | 85 |
| "Hospital long-term care unit" has the same meaning as in | 86 |
| section 5168.40 of the Revised Code. | 87 |
| "ICDS participant" has the same meaning as in section | 88 |
| 5164.01 of the Revised Code. | 89 |
| "ICF/IID" and "ICF/IID services" have the same meanings as | 90 |
| in section 5124.01 of the Revised Code. | 91 |
| "Integrated care delivery system" and "ICDS" have the same | 92 |
| meanings as in section 5164.01 of the Revised Code. | 93 |
| "Level of care determination" means a determination of | 94 |
| whether an individual needs the level of care provided by a | 95 |
| hospital, nursing facility, or ICF/IID and whether the | 96 |
| individual, if determined to need that level of care, would | 97 |
| receive hospital services, nursing facility services, or ICF/IID | 98 |
| services if not for a home and community-based services medicaid | 99 |
| waiver component. | 100 |
| "Medicaid buy-in for workers with disabilities program" | 101 |

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| has the same meaning as in section 5163.01 of the Revised Code. | 102 |
| "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code. | 103 104 |
| "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code. | 105 106 |
| "Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. | 107 108 109 110 |
| "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code. | 111 112 |
| "Medically fragile child" means an individual who is under eighteen years of age, has intensive health care needs, and is considered blind or disabled under section 1614(a)(2) or (3) of the "Social Security Act," 42 U.S.C. 1382c(a)(2) or (3). | 113 114 115 116 |
| "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code. | 117 118 |
| "Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code. | 119 120 121 122 |
| "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code. | 123 124 |
| "Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves | 125 126 127 128 129 |

children and either has more than sixteen beds or is part of a 130
campus of multiple facilities or institutions that, combined, 131
have a total of more than sixteen beds. 132

"Skilled nursing facility" has the same meaning as in 133
section 5165.01 of the Revised Code. 134

"Unified long-term services and support medicaid waiver 135
component" means the medicaid waiver component authorized by 136
section 5166.14 of the Revised Code. 137

Sec. 5166.38. (A) As used in sections 5166.38 to 5166.384 138
of the Revised Code: 139

(1) "Adult" means an individual who is at least eighteen 140
years of age. 141

(2) "Cost sharing" has the same meaning as in 42 C.F.R. 142
447.51. 143

(3) "Eligible employer-sponsored health plan" has the same 144
meaning as in section 5000A(f) (2) of the "Internal Revenue Code 145
of 1986," 26 U.S.C. 5000A(f) (2). 146

(4) "Medicaid managed care organization" has the same 147
meaning as in section 5167.01 of the Revised Code. 148

(5) "Medicaid personal responsibility initiative" means 149
the medicaid waiver component established under sections 5166.38 150
to 5166.384 of the Revised Code. 151

(6) "OhioMeansJobs" has the same meaning as in section 152
6301.01 of the Revised Code. 153

(7) "Ohio works first" has the same meaning as in section 154
5107.02 of the Revised Code. 155

(8) "Premium" has the same meaning as in 42 C.F.R. 447.51. 156

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| <u>(9) "State or local correctional facility" means any of</u> | 157 |
| <u>the following:</u> | 158 |
| <u>(a) A "state correctional institution" as defined in</u> | 159 |
| <u>section 2967.01 of the Revised Code;</u> | 160 |
| <u>(b) A "local correctional facility" as defined in section</u> | 161 |
| <u>2903.13 of the Revised Code;</u> | 162 |
| <u>(c) A correctional facility that is privately operated and</u> | 163 |
| <u>managed pursuant to section 9.06 of the Revised Code.</u> | 164 |
| <u>(10) "Supplemental nutrition assistance program" means the</u> | 165 |
| <u>program administered by the department of job and family</u> | 166 |
| <u>services pursuant to section 5101.54 of the Revised Code.</u> | 167 |
| <u>(B) The medicaid director shall establish a medicaid</u> | 168 |
| <u>waiver component known as the medicaid personal responsibility</u> | 169 |
| <u>initiative. Each adult medicaid recipient determined to be</u> | 170 |
| <u>eligible for medicaid on the basis of being included in the</u> | 171 |
| <u>expansion eligibility group shall participate in the medicaid</u> | 172 |
| <u>personal responsibility initiative.</u> | 173 |
| <u>(C) In establishing the medicaid personal responsibility</u> | 174 |
| <u>initiative, the department shall collaborate with other state</u> | 175 |
| <u>agencies that administer public assistance programs under the</u> | 176 |
| <u>laws of this state.</u> | 177 |
| <u>Sec. 5166.381.</u> (A) <u>The department of medicaid shall</u> | 178 |
| <u>institute premium requirements for participants in the medicaid</u> | 179 |
| <u>personal responsibility initiative. The department shall</u> | 180 |
| <u>establish premiums on a sliding scale basis and require each</u> | 181 |
| <u>participant to pay a premium in accordance with the sliding</u> | 182 |
| <u>scale as a condition of enrolling or remaining enrolled in the</u> | 183 |
| <u>medicaid program.</u> | 184 |

(B) If a medicaid personal responsibility initiative 185
participant ceases to participate in the medicaid program and 186
purchases a health insurance policy or obtains health care 187
coverage under an eligible employer-sponsored health plan, the 188
participant's premium shall be transferred on a prorated basis 189
to an account to be known as a bridge account. The amount so 190
transferred may be used only to pay for the following: 191

(1) If the former participant has purchased a health 192
insurance policy, the former participant's costs in purchasing 193
the policy and the former participant's out-of-pocket expenses 194
under the policy for health care services and prescription drugs 195
covered by the policy; 196

(2) If the former participant has obtained health care 197
coverage under an eligible employer-sponsored health plan, the 198
participant's out-of-pocket expenses under the plan for health 199
care services and prescription drugs covered by the plan. 200

Sec. 5166.382. In addition to the cost-sharing 201
requirements the department of medicaid institutes under section 202
5162.20 of the Revised Code, the department shall institute 203
cost-sharing requirements for participants in the medicaid 204
personal responsibility initiative. The cost-sharing 205
requirements shall require participants to pay a copayment for 206
all of the following: 207

(A) Medicaid services provided by a specialist, unless the 208
services are provided pursuant to a referral from a primary care 209
provider; 210

(B) Services provided in an emergency department; 211

(C) If the participant is participating in the care 212
management system established under section 5167.03 of the 213

Revised Code, services provided by a provider who is not under 214
contract with the medicaid managed care organization in which 215
the participant is enrolled. 216

Sec. 5166.383. A participant in the medicaid personal 217
responsibility initiative shall seek employment or occupational 218
training opportunities, create an account with OhioMeansJobs, 219
and participate in OhioMeansJobs job placement activities, 220
unless the participant can provide satisfactory evidence that 221
the participant is any of the following: 222

(A) At least fifty years of age; 223

(B) Employed; 224

(C) Enrolled in school or an occupational training 225
program; 226

(D) Participating in a mental health or alcohol and drug 227
addiction treatment program, or included on a waiting list for 228
such a program; 229

(E) Pregnant; 230

(F) Unable to use OhioMeansJobs because the participant is 231
legally prohibited from using a computer, has a physical or 232
visual impairment that makes the participant unable to use a 233
computer, or has a limited ability to read, write, speak, or 234
understand a language in which OhioMeansJobs is available; 235

(G) Participating in Ohio works first and satisfying the 236
requirements included in the participant's self-sufficiency 237
contract entered into under section 5107.14 of the Revised Code; 238

(H) Participating in the comprehensive case management and 239
employment program established under Chapter 5116. of the 240
Revised Code; 241

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| <u>(I) A victim of domestic violence;</u> | 242 |
| <u>(J) An individual who has been abandoned by the individual's spouse;</u> | 243 244 |
| <u>(K) Living with at least one of the participant's parents and assists the parent with activities of daily living, including bathing, toileting, dressing, cooking meals, administering medicine, and ensuring the parent's health and safety;</u> | 245 246 247 248 249 |
| <u>(L) Mentally or physically unfit for employment, as determined by the medicaid director;</u> | 250 251 |
| <u>(M) Responsible for the care of a child under seven years of age or of an incapacitated person;</u> | 252 253 |
| <u>(N) A ward of the state;</u> | 254 |
| <u>(O) Confined in a state or local correctional facility;</u> | 255 |
| <u>(P) Receiving supplemental nutrition assistance program benefits and satisfying the employment and training requirements established in rules adopted under section 5101.54 of the Revised Code;</u> | 256 257 258 259 |
| <u>(Q) Enrolled in a medicaid managed care organization and participating in an employment initiative established by the organization.</u> | 260 261 262 |
| <u>Sec. 5166.384.</u> <u>The department of medicaid shall implement programs designed to promote better health outcomes for medicaid personal responsibility initiative participants through the use of all of the following:</u> | 263 264 265 266 |
| <u>(A) Preventative medicine;</u> | 267 |
| <u>(B) Health risk assessments;</u> | 268 |

(C) Biometric screenings; 269

(D) Wellness programs. 270

Sec. 5167.03. As part of the medicaid program, the 271
department of medicaid shall establish a care management system. 272
The department shall implement the system in some or all 273
counties. 274

The department shall designate the medicaid recipients who 275
are required or permitted to participate in the care management 276
system. Those who shall be required to participate in the system 277
include medicaid recipients who receive cognitive behavioral 278
therapy as described in division (A) (2) of section 5167.16 of 279
the Revised Code. ~~Except as provided in section 5166.406 of the~~ 280
~~Revised Code, no medicaid recipient participating in the healthy-~~ 281
~~Ohio program established under section 5166.40 of the Revised~~ 282
~~Code shall participate in the system.~~ 283

The general assembly's authorization through the enactment 284
of legislation is needed before home and community-based 285
services available under a medicaid waiver component or nursing 286
facility services are included in the care management system, 287
except that ICDS participants may be required or permitted to 288
obtain such services under the system. Medicaid recipients who 289
receive such services may be designated for voluntary or 290
mandatory participation in the system in order to receive other 291
health care services included in the system. 292

The department may require or permit participants in the 293
care management system to obtain health care services from 294
providers designated by the department. The department may 295
require or permit participants to obtain health care services 296
through medicaid managed care organizations. 297

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| Section 2. That existing sections 5163.01, 5166.01, and | 298 |
| 5167.03 of the Revised Code are hereby repealed. | 299 |
| Section 3. That sections 5166.37, 5166.40, 5166.401, | 300 |
| 5166.402, 5166.403, 5166.404, 5166.405, 5166.406, 5166.407, | 301 |
| 5166.408, and 5166.409 of the Revised Code are hereby repealed. | 302 |
| Section 4. That existing Section 333.280 of H.B. 49 of the | 303 |
| 132nd General Assembly is hereby repealed. | 304 |