HOUSE BILL 960
By Windle

SENATE BILL 945

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 4; Title 56 and Title 71, relative to medical assistance.

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

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 4, is amended by adding the following as a new part:

71-4-901. Short title.

This part shall be known and may be cited as the "Medicaid Buy-in for Working People with Disabilities Act."

71-4-902. Definitions.

As used in this part:

(1) "Basic coverage group" means the category of eligibility under the federal Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. 106-170), that provides an opportunity to buy into medicaid consistent with the federal Social Security Act (42 U.S.C. § 1396a(a)(10)(A)(ii)(XV)), as amended, for each worker with disabilities who is at least sixteen (16) years of age but less than sixty-five (65) years of age and who, except for earnings, would be eligible for the supplemental security income program. A person who is eligible under the basic coverage group may also be a home-based and community-based services waiver recipient;

(2) "Department" means the department of health;

(3) "Family" means an individual, the individual's spouse, and any dependent child of the individual;

(4) "Health insurance" means surgical, medical, hospital, major medical, or other health service coverage, including a self-insured health plan, but does not include hospital indemnity policies or ancillary coverages, such as income continuation, loss of time, or accident benefits;

(5) "Home-based and community-based services" means any of the following supportive services and systems, as approved by the health care financing administration (HCFA), that are provided to older persons and individuals with disabilities to remain independent and avoid inappropriate institutionalization and that help individuals maintain physical, social, and spiritual independence in the least restrictive environment:

(A) Living environments and supportive services, such as assisted care living facilities, homes for the aged, and assistive technology;

(B) Personal care, homemaker, and chore services;

(C) Adult day services;

(D) Congregate and home delivered meals;

(E) Home care organizations;

(F) Rehabilitative care;

(G) Assisted transportation or mobility services; and

(H) Support services to caregivers, including hospice and respite care;

(6) "Medicaid buy-in program" means a program that gives each person with disabilities the opportunity to buy into medicaid if the person meets the eligibility criteria specified in § 71-4-904; and

(7) "Medical improvement group" means the category of eligibility under the federal Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. 106-170), that provides an opportunity to buy into medicaid consistent with the

federal Social Security Act (42 U.S.C. § 1396a(a)(10)(A)(ii)(XV)), as amended, for each worker with a medically improved disability who is at least sixteen (16) years of age but less than sixty-five (65) years of age and who was previously in the basic coverage group and is no longer eligible for the basic coverage group due to medical improvement. A person who is eligible under the medical improvement group may also be a home-based and community-based services waiver recipient.

71-4-903. Waivers and amendments.

The department shall submit to the federal centers for medicare and medicaid services an amendment to the state medical assistance plan, and shall request any necessary waivers from the secretary of the federal department of health and human services, to permit the department to expand medical assistance eligibility as provided in this part for the purpose of implementing a medicaid buy-in program for people with disabilities who are in the basic coverage group or the medical improvement group. In addition, the department shall apply to the secretary of the federal department of health and human services for a medicaid infrastructure grant, if available, to develop and implement the federal Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. 106-170).

71-4-904. Medicaid buy-in program—eligibility—premiums—medicaid buy-in cash fund—report.

(a) An individual is eligible for and shall receive medicaid provided in this part through a medicaid buy-in program without losing eligibility for medicaid if all of the following conditions are met:

(1) The individual is a United States citizen, is employed at the time of application, and resides in a distressed rural county on the list published pursuant to § 67-6-104(b)(3)(B);

(2) The individual meets the requirements for the basic coverage group or the individual was previously in the basic coverage group and now meets the requirements for the medical improvement group;

(3) The individual maintains premium payments calculated by the department in accordance with subsection (c), unless the individual is exempted from premium payments under rules promulgated by the department; and

(4) The individual meets all other requirements established by rule of the department.

(b) There is no income or asset limitation for a participant in the medicaid buy-in program. In addition, there is no income or asset limitation for an individual who participates in the medicaid buy-in program and also receives home-based and community-based services.

(c)

(1) An individual who is eligible for and receives medicaid under subsection (a) shall pay a premium pursuant to a payment schedule established by the department. The amount of the premium must be determined from a sliding-fee scale adopted by rule of the department that is based on a percentage of the individual's income adjusted for family size and on any impairment-related work expenses. However, consistent with federal law, if the amount of the individual's adjusted gross income exceeds seventy-five thousand dollars ($75,000), then the individual is responsible for paying one hundred percent (100%) of the premium. The actuarial study must also consider contributions

from employers pursuant to subdivision (d)(2). The rules must specify the amount of unearned income the department shall disregard in calculating the individual's income.

(2) The rules setting the premiums and the sliding-fee scale must be based on an actuarial study of the disabled population in this state. The state department may solicit and accept federal grants to cover the costs of the actuarial study. Moneys received through any grants and premiums must be credited to the medicaid buy-in cash fund, which fund is hereby created in the state treasury. Moneys in the fund must be appropriated by the general assembly and expended by the department for the purpose of conducting implementation activities as determined by the department, including conducting the actuarial study. Premiums must be credited to the fund for the purpose of offsetting program costs.

(3) Within three (3) years after implementation of the medicaid buy-in program pursuant to this part, the department shall submit a report on the effectiveness of the program to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate.

(d)

(1) The department shall, on behalf of an individual who is eligible for medicaid under subsection (a), pay premiums for or purchase individual coverage offered by the individual's employer if the department determines that paying the premiums or purchasing the coverage will be less than providing medicaid coverage. Any employer-sponsored health insurance plan must be the primary payer, and any payments made under medicaid must be secondary. If the employer-sponsored health insurance plan provides benefits that are not

equivalent to the benefits provided under medicaid, then medicaid must provide all additional benefits that are not provided by the employer-sponsored health insurance plan.

(2) If an individual is eligible for medicaid under subsection (a) and the individual's employer would pay for all or a portion of the individual's private insurance, then the department may accept contributions from the individual's employer to offset part of the cost of providing services pursuant to this section.

(e) If federal financial participation is available, subject to available appropriations, then the department may pay medicare part A and part B premiums for individuals who are eligible for medicare and for medicaid under subsection (a).

71-4-905. Rulemaking authority.

(a) The department shall promulgate rules necessary to implement and administer the medicaid buy-in program created in this part, including the establishment of appropriate premium and cost-sharing charges on a sliding-fee scale based on income. The premiums and cost-sharing charges must be based upon an actuarial study of the disabled population in this state.

(b) Any rules adopted by the department must be consistent with the federal Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. 106-170).

(c) All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

71-4-906. Availability of federal financial assistance under medical assistance.

Notwithstanding any other law, this part must be implemented only if, and to the extent that, the department determines that federal financial participation is available under the medicaid program.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.