

HOUSE BILL NO. 376

INTRODUCED BY C. SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
5 SERVICES TO APPLY FOR CHANGES TO THE STATE MEDICAID PLAN TO ALLOW CONSUMER-DIRECTED
6 CARE; AUTHORIZING A STATE PLAN AMENDMENT FOR HEALTH OPPORTUNITY ACCOUNTS;
7 REQUIRING THE DEPARTMENT TO APPLY FOR A MEDICAID WAIVER TO ALLOW FOR THE CREATION
8 OF MEDICAID SAVINGS ACCOUNTS; ESTABLISHING REQUIREMENTS FOR USE OF THE ACCOUNTS;
9 REQUIRING REPORTS; AMENDING SECTION 53-6-140, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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13 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Patients First
14 Medicaid Reform Act".

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16 NEW SECTION. **Section 2. State amendment for health opportunity account program.** (1) The
17 department shall apply to the centers for medicare and medicaid services for an amendment to the medicaid state
18 plan to undertake a health opportunity account demonstration project as authorized by 42 U.S.C. 1396u-8.

19 (2) The department may offer the demonstration project statewide or may limit the demonstration project
20 to specific counties.

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22 NEW SECTION. **Section 3. Waiver for self-directed medical services provided through medicaid
23 savings accounts -- purpose.** (1) The department shall apply to the centers for medicare and medicaid services
24 for a waiver to create medicaid savings accounts for medicaid recipients. The purpose of the accounts is to give
25 recipients greater control over their medical care and provide incentives to control the medical costs they incur.

26 (2) The department in its application:

27 (a) shall seek funding for a 5-year block grant equal to 10% of the department's federal medicaid funds
28 for use beginning in fiscal year 2013;

29 (b) shall describe the medicaid-eligible populations to be covered by the waiver; and

30 (c) may limit the waiver to specific populations or geographic areas.

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2 **NEW SECTION. Section 4. Medicaid savings accounts -- funding -- uses.** The waiver request
3 provided for in [section 3] must:

4 (1) allow for creation of medicaid savings accounts that must be used by a recipient to:
5 (a) purchase from a private health insurer, as provided in 50-4-504, a high-deductible health plan that
6 meets the federal requirements for health savings account eligibility; and

7 (b) pay for medical services subject to the plan's deductible;
8 (2) (a) require that the state deposit medicaid funds in a recipient's medicaid savings account that are
9 sufficient to pay for:

10 (i) a qualifying high-deductible health plan for an individual or family; and
11 (ii) a portion of a related health savings account;

12 (b) allow the department to adjust the amount deposited based on a recipient's age and health status;
13 (3) establish that a high-deductible health plan purchased pursuant to the waiver must cover federally
14 mandated medicaid benefits and is exempt from optional benefits offered under the state medicaid plan;

15 (4) require cost sharing by medicaid recipients consistent with the provisions of 42 CFR, part 447;
16 (5) allow the department to maintain control of the money in a medicaid savings account by making
17 electronic deposits into an account held by the state and making payments from the account directly to insurers
18 and providers for qualifying expenses;

19 (6) allow a medicaid recipient to use to use excess medicaid savings account funds for education, job
20 training, child care, or other nonmedical expenses pursuant to [section 5];

21 (7) allow a recipient who loses eligibility for medicaid because of an increase in income to retain and use
22 unspent funds that have accrued in the medicaid savings account;

23 (8) require the department to make premium support payments to an employer if a medicaid recipient
24 is enrolled in or becomes eligible for an employer-sponsored health insurance plan. Premium support payments
25 must be made until the recipient loses eligibility for the medicaid program.

26 (9) meet the public notice and comment requirements of 53-2-215 if the waiver application is for a section
27 1115 waiver.

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29 **NEW SECTION. Section 5. Use of excess medicaid savings accounts for nonmedical purposes.**

30 (1) A medicaid recipient with a medicaid savings account may apply to the department in writing to use excess

1 funds for nonmedical expenses as allowed in [section 4] or by the department in rule. The recipient shall submit
2 a written request for use of the medicaid savings account funds for nonmedical purposes.

3 (2) The department shall respond to a request for use of excess medicaid savings account funds within
4 7 business days of receipt of the request and shall make a final decision on the request within 30 days.

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6 **NEW SECTION. Section 6. Reporting requirements for medicaid savings account waiver.** (1) The
7 department shall provide an annual report on the medicaid savings account waiver to the children, families,
8 health, and human services interim committee and to the legislative finance committee. The report must include:

- 9 (a) the number of people enrolled in the waiver;
10 (b) the use of preventive care services under the waiver;
11 (c) cost savings attributable to the waiver;
12 (d) the number of people who left the waiver program because they were no longer eligible for medicaid;

13 and

- 14 (e) other information as determined by the department.

15 (2) The department shall post online a summary of transactions involving medicaid savings accounts.
16 The summary may not contain any personally identifiable information.

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18 **NEW SECTION. Section 7. Department duties related to self-directed accounts.** (1) The department
19 shall develop a counseling program to help medicaid recipients manage the finances and benefits associated
20 with:

- 21 (a) a health opportunity account;
22 (b) a medicaid savings account and a related high-deductible health plan; or
23 (c) employer-sponsored insurance coverage.

24 (2) The department shall provide each participant with:

- 25 (a) a list of the coverage options and their related benefits;
26 (b) information about cost sharing required under the coverage options;
27 (c) information about plan performance, if available;
28 (d) an explanation of the limitations on benefits under each coverage option;
29 (e) information that for each coverage option identifies the providers participating in the network, the
30 geographic areas where services are available, and any limitations on transportation; and

1 (f) any other information the department considers important to helping a recipient determine which plan
2 or coverage option would best meet the recipient's needs.

3 (3) The department shall develop a system to document that counseling has been provided to each
4 recipient. The system must contain the recipient's acknowledgment that the recipient received the counseling.

5 (4) (a) The counseling required under this section may be conducted in person, by telephone, in writing,
6 or by using other forms of relevant media, including electronic means.

7 (b) Materials provided under this section must be written at the 4th grade reading level.

8 (5) The counseling required under this section must promote health literacy and provide information
9 designed to reduce disparities among minority populations through outreach activities for medicaid recipients.

10 (6) The department may contract with a private entity to conduct the counseling required under this
11 section. The department may establish standards requiring the entity to hire counselors who are representative
12 of the state's population and to train counselors in working with culturally diverse populations.

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14 **NEW SECTION. Section 8. Transition to medicaid savings accounts.** Upon approval of a waiver
15 application submitted pursuant to [section 3], the department shall establish a process for closing the health
16 opportunity accounts provided for in [section 2] and establishing medicaid savings accounts for recipients who
17 were participating in the health opportunity account demonstration project.

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19 **Section 9.** Section 53-6-140, MCA, is amended to read:

20 **"53-6-140. Account Accounts not to be treated as asset for purposes of eligibility.** (1) If allowed
21 by federal law, the principal and all interest or other income contained within an account established in
22 accordance with Title 15, chapter 61, may not be treated as an asset of the employee or account holder or as
23 an asset of a dependent of the employee or account holder for the purposes of eligibility for the Montana medicaid
24 program.

25 (2) The principal, interest, or other income contained in an account established pursuant to [sections 1
26 through 8] may not be treated as an asset for the purposes of determining eligibility for the Montana medicaid
27 program."

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29 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 8] are intended to be
30 codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply

1 to [sections 1 through 8].

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3 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2011.

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