

## 1 HOUSE BILL NO. 319

2 INTRODUCED BY C. PEASE-LOPEZ

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING TRANSITION REQUIREMENTS FOR YOUTH WHO  
5 WILL BECOME INELIGIBLE FOR CHILDREN'S MENTAL HEALTH SERVICES BECAUSE OF AGE;  
6 REQUIRING ASSESSMENTS; REQUIRING COORDINATION OF CARE; AUTHORIZING PAYMENT;  
7 PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 52-2-201, 52-2-202, 52-2-308,  
8 53-6-113, AND 53-21-702, MCA."

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

11

12 NEW SECTION. **Section 1. Legislative findings -- intent.** (1) The legislature finds that taking steps  
13 to ensure a smooth transition between the children's and adult mental health systems for youth who will no longer  
14 qualify for services in the children's system will:

15 (a) improve the mental health outcomes for young adults who need continued mental health services  
16 after they reach 18 years of age;

17 (b) decrease the likelihood that young adults will experience a gap in services; and

18 (c) decrease the probability that young adults will experience a mental health crisis that would result in  
19 a need for more intensive and costly mental health services or in an encounter with the criminal justice system.

20 (2) It is the intent of the legislature to improve transition services and promote continuity of mental health  
21 care for young adults by:

22 (a) identifying youth in need of services in the adult system before they reach 18 years of age;

23 (b) requiring planning for a youth's adult mental health or related needs;

24 (c) requiring referral and coordination of care between children's and adult mental health providers as  
25 a youth approaches 18 years of age in cases where the youth will qualify for publicly funded adult mental health  
26 services;

27 (d) authorizing payment for services related to conducting assessments, developing plans, and  
28 coordinating care; and

29 (e) collecting information related to transition planning and its outcomes.

30

1            NEW SECTION. **Section 2. Transition planning for youth with mental health diagnoses --**  
2 **rulemaking authority -- data.** (1) (a) The department shall require that a child with a serious emotional  
3 disturbance as defined by the department by rule is evaluated at least 6 months and not more than 18 months  
4 before reaching 18 years of age to determine whether, if the youth were 18 years of age or older, the youth would  
5 be determined eligible for adult services as established by the department by rule.

6            (b) The evaluation must be conducted by a provider of adult mental health services.

7            (c) The evaluation must include a diagnostic evaluation and may include other assessments as needed  
8 to determine the most appropriate transition plan for the youth.

9            (2) If the evaluation shows that a youth would not be eligible for mental health services as an adult as  
10 established by the department by rule, the department shall require that the youth's mental health provider  
11 develop a written plan outlining the full range of services and supports that would be available to the youth after  
12 reaching 18 years of age to allow for a successful transition out of children's mental health services. The plan  
13 must be developed in conjunction with the youth and the youth's family.

14            (3) (a) If an evaluation shows that a youth would be eligible for mental health services as an adult, the  
15 department shall require that a plan of care be developed to identify:

16            (i) the full range of services that may best meet the youth's treatment needs in the adult mental health  
17 system; and

18            (ii) the services that must be provided to the youth before the youth reaches 18 years of age, including  
19 treatment planning that involves providers from the children's and adult mental health systems and appropriate  
20 targeted case management services to prepare for the youth's transition out of the children's mental health  
21 system.

22            (b) The providers responsible for the youth's mental health treatment shall develop a single plan of care  
23 in conjunction with the youth and the youth's family. The plan of care:

24            (i) may be developed in conjunction with a provider of adult mental health services who has been  
25 identified as a likely provider of services after the youth reaches 18 years of age; and

26            (ii) must reflect a coordinated and integrated approach among the youth's current providers if the youth  
27 is receiving services from more than one provider.

28            (4) The plan of care developed pursuant to subsection (3) must include but is not limited to:

29            (a) identification of an available provider of adult mental health services, including a process for making  
30 a referral to the provider;

1 (b) an initial indication of whether the youth would qualify for publicly funded adult mental health services;  
2 (c) establishment of a plan for treatment and adult case management services, as needed, to be  
3 provided to the youth by both children's and adult mental health providers within at least 6 months of the youth's  
4 18th birthday. Where appropriate, the services should include the youth's family.

5 (5) (a) The department shall determine by rule the reimbursement schedule for the evaluation required  
6 under subsection (1) and the planning, treatment, and targeted case management services provided under this  
7 section.

8 (b) The department shall reimburse targeted case management services provided on the same day by  
9 children's and adult providers to the extent allowed by federal law and regulation if the services are provided  
10 pursuant to this section.

11 (6) (a) The department shall maintain information about the transition planning provided under this  
12 section, including but not limited to the number of youth to whom transition planning services were offered, the  
13 number who were determined to be eligible for adult mental health services, and the number who entered into  
14 those services upon reaching 18 years of age.

15 (b) The department shall make the information available on its website and report on the information to  
16 the children, families, health, and human services interim committee before May 31 of the year preceding each  
17 regular legislative session.

18  
19 **NEW SECTION. Section 3. Payment for transition services.** (1) To the greatest extent possible, the  
20 department shall pay for the costs of the transition services required under [section 2] by using money from:

21 (a) the medicaid program provided for in Title 53, chapter 6, part 1;  
22 (b) the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and  
23 (c) federal grant funds, including federal community mental health services block grant funds, if available.

24 (2) Any costs not payable by the medicaid program, the healthy Montana kids plan, or federal grant funds  
25 must be paid from the general fund.

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27 **Section 4.** Section 52-2-201, MCA, is amended to read:

28 **"52-2-201. Purpose.** It is the purpose of this part to strengthen and improve children's services in  
29 Montana by requiring interagency and intra-agency cooperation regarding:

30 (1) the provision of services to children; and

1           (2) the identification of services for which a youth with mental health needs may qualify after the youth  
2 reaches 18 years of age."

3

4           **Section 5.** Section 52-2-202, MCA, is amended to read:

5           **"52-2-202. Definitions.** For purposes of this part, unless the context requires otherwise, the following  
6 definitions apply:

7           (1) "Children with multiagency service needs" means children under 18 years of age who have a need  
8 for services that are available from more than one state agency or from one or more divisions or programs within  
9 a state agency.

10           (2) "Services" means publicly funded social services for children, including public education, child  
11 protective services, mental health services, child health care, and related services.

12           (3) "State agency" means:

13           (a) the department of corrections provided for in 2-15-2301;

14           (b) the board of crime control provided for in 2-15-2006;

15           (c) the department of public health and human services provided for in 2-15-2201; and

16           (d) the superintendent of public instruction provided for in 2-15-701."

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18           **Section 6.** Section 52-2-308, MCA, is amended to read:

19           **"52-2-308. Rulemaking.** The department shall adopt rules necessary to implement this part. The rules  
20 must:

21           (1) include methods for carrying out the provisions of [section 2] in a coordinated manner with services  
22 provided through the adult mental health system; and

23           (2) be adopted in cooperation with the committee established in 52-2-303."

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25           **Section 7.** Section 53-6-113, MCA, is amended to read:

26           **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary for  
27 the administration of the Montana medicaid program as provided for in this part and that may be required by  
28 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,  
29 42 U.S.C. 1396, et seq., as amended.

30           (2) The department shall adopt rules that are necessary to further define for the purposes of this part the

1 services provided under 53-6-101 and to provide that services being used are medically necessary and that the  
2 services are the most efficient and cost-effective available. The rules may establish the amount, scope, and  
3 duration of services provided under the Montana medicaid program, including the items and components  
4 constituting the services.

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

9 (a) the availability of appropriated funds;

10 (b) the actual cost of services;

11 (c) the quality of services;

12 (d) the professional knowledge and skills necessary for the delivery of services; and

13 (e) the availability of services.

14 (4) The department shall specify by rule those professionals who may deliver or direct the delivery of  
15 particular services.

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

18 (6) The department may adopt rules consistent with this part to govern eligibility for the Montana  
19 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited  
20 to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family  
21 responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient  
22 information, and cooperation with the state agency administering the child support enforcement program under  
23 Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below  
24 \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty  
25 level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

26 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided  
27 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  
28 if funds appropriated are not sufficient to provide medical care for all eligible persons.

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

- 1 (a) participation in managed care;
- 2 (b) selection and qualifications for providers of managed care; and
- 3 (c) standards for the provision of managed care.
- 4 (9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for
- 5 extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who
- 6 lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the
- 7 department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended
- 8 medical assistance will be provided. The department, in exercising its discretion to set income limits and duration
- 9 of assistance, may consider the amount of funds appropriated by the legislature.

10 (10) The department shall adopt rules for carrying out the provisions of [section 2] in a manner that

11 coordinates services provided through the children's and adult mental health systems."

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13 **Section 8.** Section 53-21-702, MCA, is amended to read:

14 **"53-21-702. Mental health care system -- eligibility -- services -- advisory council.** (1) The

15 department of public health and human services shall develop a delivery system of mental health care from

16 providers or other entities that are able to provide administration or delivery of mental health services. The public

17 mental health care system shall:

18 (a) include specific outcome and performance measures for the administration or delivery of a continuum

19 of mental health services;

20 (b) provide for local advisory councils that shall report to and meet on a regular basis with the advisory

21 council provided for in subsection (4);

22 (c) provide level-of-care appeals that are understandable and accessible; and

23 (d) provide a system for tracking children who need mental health services that are provided under

24 substantive interagency agreements between state agencies responsible for addictive and mental disorders,

25 foster care, children with developmental disabilities, special education, and juvenile corrections.

26 (2) (a) The department may establish resource and income standards of eligibility for mental health

27 services that are more liberal than the resource and income standards of eligibility for physical health services.

28 The standards of eligibility for mental health services may provide for eligibility for households not eligible for

29 medicaid with family income that does not exceed 160% of the federal poverty threshold or that does not exceed

30 a lesser amount determined at the discretion of the department.

1           **(b)** The department may by rule specify:  
2           **(i)** under what circumstances deductions for medical expenses should be used to reduce countable  
3 family income in determining eligibility; and  
4           **(ii)** ~~The department may also adopt rules establishing~~ fees, premiums, or copayments to be charged  
5 recipients for services. The fees, premiums, or copayments may vary according to family income.  
6           **(c)** Rules adopted under this section must include methods for carrying out the provisions of [section 2]  
7 in a coordinated manner with services provided under this section.

8           (3) The department shall establish the amount, scope, and duration of services to be provided under the  
9 program. Services for nonmedicaid-eligible individuals may be more limited than those services provided to  
10 medicaid-eligible individuals. Services to nonmedicaid-eligible individuals may include a pharmacy benefit.

11           (4) (a) The department shall form an advisory council, to be known as the mental health oversight  
12 advisory council, to provide input to the department in the development and management of any public mental  
13 health system. The advisory council is not subject to 2-15-122. The advisory council membership must include:

14           (i) one-half of the members as consumers of mental health services, including persons with serious  
15 mental illnesses who are receiving public mental health services, other recipients of mental health services,  
16 former recipients of public mental health services, and immediate family members of recipients of mental health  
17 services; and

18           (ii) advocates for consumers or family members of consumers, members of the public at large, providers  
19 of mental health services, legislators, and department representatives.

20           (b) The advisory council under this section may be administered so as to fulfill any federal advisory  
21 council requirements to obtain federal funds for this program.

22           (c) Geographic representation must be considered when appointing members to the advisory council  
23 in order to provide the widest possible representation.

24           (d) The advisory council shall provide a summary of each meeting and a copy of any recommendations  
25 made to the department to the legislative finance committee and any other designated appropriate legislative  
26 interim committee. The department shall provide the same committees with the department's rationale for not  
27 accepting or implementing any recommendation of the advisory council."

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29           **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 3] are intended to be codified  
30 as an integral part of Title 52, chapter 2, part 2, and the provisions of Title 52, chapter 2, apply to [sections 1

1 through 3].

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