

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FRAUD PREVENTION TRAINING AND FISCAL
5 ACCOUNTABILITY REQUIREMENTS FOR CERTAIN MEDICAID IN-HOME CARE SERVICES; REQUIRING
6 TRAINING AND EDUCATION IN FRAUD PREVENTION; REQUIRING COST REPORTS; PROVIDING
7 RULEMAKING AUTHORITY; AND AMENDING SECTION 53-6-113, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. **Section 1. Fraud prevention education -- department responsibilities.** (1) A
12 provider of personal assistance or attendant services or supports that are funded as a medicaid state plan service
13 shall provide training and continuing education to consumers and employees in an effort to prevent and reduce
14 fraud in the Montana medicaid program.

15 (2) (a) The training must be presented in person whenever the provider:

- 16 (i) hires a new employee; or
- 17 (ii) enrolls a consumer to receive services.

18 (b) The provider shall require its employees and the consumers who are receiving services to review
19 fraud prevention materials on an annual basis after completing the initial training.

20 (c) Each employee and consumer shall sign a document attesting to the fact that they received the
21 in-person training or received and reviewed the fraud prevention materials.

22 (d) When the training involves services provided using a self-directed service model, the consumer may
23 provide the training.

24 (3) The training and continuing education must include but is not limited to information on:

- 25 (a) activities that constitute fraud;
- 26 (b) ways to prevent fraud; and
- 27 (c) when and how to report fraud.

28 (4) (a) The department and the medicaid fraud control unit provided for in 53-6-156 shall, in consultation
29 with home and community-based services consumers, providers, and advocates, develop the elements to be
30 included in the training.



- 1 (b) A provider may:
- 2 (i) develop training materials that meet the requirements developed by the department and the medicaid
- 3 fraud control unit; or
- 4 (ii) use training materials approved by the department by rule.
- 5 (5) The department may adopt rules requiring other providers of medicaid home and community-based
- 6 services that are provided in a person's home to provide the training required under this section.
- 7 (6) The department shall:
- 8 (a) review and approve fraud education materials; and
- 9 (b) monitor compliance with training requirements.

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11 **NEW SECTION. Section 2. Fiscal accountability for home and community-based services.** (1) A

12 provider of personal assistance or attendant services or supports that are funded as a medicaid state plan service

13 shall submit a cost report to the department each year. The report must reflect costs incurred during the provider's

14 most recent fiscal year.

15 (2) The department shall develop a standardized format for the cost report that includes the recognized

16 expenditures incurred by providers.

17 (3) The department shall analyze cost reports submitted by providers to determine at a minimum:

18 (a) the reasonable cost of providing the home and community-based services detailed in the report;

19 (b) the percentage of a provider's cost represented by payment of wages and benefits for direct-care

20 employees; and

21 (c) the level of profit or loss that each provider incurred in delivering the service. The profit or loss must

22 be determined by comparing the recognized cost of providing the service with the medicaid reimbursement

23 provided for the same service.

24 (4) The department may adopt rules requiring other providers of medicaid home and community-based

25 services that are provided in a person's home to submit the cost report required under this section.

26

27 **Section 3.** Section 53-6-113, MCA, is amended to read:

28 **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary for

29 the administration of the Montana medicaid program as provided for in this part and that may be required by

30 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,

1 42 U.S.C. 1396, et seq., as amended.

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

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

11 (a) the availability of appropriated funds;

12 (b) the actual cost of services;

13 (c) the quality of services;

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

15 (e) the availability of services.

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

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

20 (6) The department may adopt rules consistent with this part to govern eligibility for the Montana
21 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited
22 to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family
23 responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient
24 information, and cooperation with the state agency administering the child support enforcement program under
25 Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below
26 \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty
27 level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

28 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
29 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
30 if funds appropriated are not sufficient to provide medical care for all eligible persons.

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

3 (a) participation in managed care;

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

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

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

12 (10) The department may adopt rules for the provision of the fraud prevention training required under
13 [section 1], including but not limited to establishing the elements that must be contained in fraud prevention
14 education materials and the models that may be used for the training.

15 (11) The department shall adopt rules to carry out the cost report provisions of [section 2], including but
16 not limited to the costs that a provider is required to report to the department, the format of the report, and the
17 deadline for filing the report."

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19 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified
20 as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, apply to [sections 1 and
21 2].

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