

HOUSE BILL NO. 455

INTRODUCED BY N. BALLANCE, R. EHLI, E. GREEF, D. HOWARD, C. SMITH, F. THOMAS, R. WEBB,
A. WITTICH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MEDICAID LAWS TO EXTEND AND IMPROVE COVERAGE ONLY UNDER THE EXISTING MEDICAID PROGRAM; REDUCING WAITING LISTS FOR CERTAIN MEDICAID WAIVER SERVICES; ALLOWING THE USE OF MEDICATION MANAGEMENT IN THE MEDICAID PROGRAM; ESTABLISHING A WELLNESS PILOT PROJECT; ESTABLISHING A COMMITTEE ON MEDICAID COVERAGE MODELS AND REFORM; PROVIDING APPROPRIATIONS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 53-6-101 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Extension of medicaid benefits. (1) The department of public health and human services shall apply for a waiver from the centers for medicare and medicaid services or submit a state plan amendment, as appropriate, to provide medicaid coverage to individuals between the ages of 18 and 65 with a family income below 100% of the federal poverty level if the individuals:

(a) have dependent children; or

(b) are veterans as defined in 10-2-101, are ineligible for coverage under another governmental or private insurance plan, and:

(i) served at least 6 months of active duty; or

~~(ii) have a disability related to their military service.~~

(2) The department shall establish resource requirements for eligibility under this section.

(3) A waiver request or state plan amendment submitted pursuant to this section must be limited to:

(a) providing medical assistance as allowed under the Montana medicaid program in effect as of January 1, 2015; and

(b) using the federal medical assistance percentage as defined and calculated in 42 U.S.C. 1396d(b).

NEW SECTION. Section 2. Primary coordinated care model -- study. (1) There is a committee on

1 medicaid coverage models and reforms to study whether the use of a primary coordinated care model that uses
2 capitated payments would be appropriate for the Montana medicaid program.

3 (2) The committee consists of:

4 (a) four senators appointed by the senate committee on committees, two from the majority party and two
5 from the minority party; and

6 (b) four representatives appointed by the speaker of the house, two from the majority party and two from
7 the minority party.

8 (3) The committee shall elect a presiding officer and a vice presiding officer. The officers may not be from
9 the same political party.

10 (4) Members are entitled to receive compensation and expenses as provided in 5-2-302.

11 (5) The legislative fiscal division shall provide staff assistance to the committee.

12 (6) The committee shall work with the department of public health and human services, health care
13 providers, and other interested parties to review the use of a primary coordinated care model that uses capitated
14 payments and determine:

15 (a) the potential benefits and potential drawbacks of using the model for the Montana medicaid program;

16 (b) the barriers that may exist to establishing the model;

17 (c) whether steps can be taken to eliminate barriers to establishing the model;

18 (d) the elements that the model would need to include to succeed in Montana; and

19 (e) whether the model should include incentives for a primary coordinated care organization, a medicaid
20 provider, or a medicaid recipient, including but not limited to:

21 (i) allowing capitated rates to be risk-adjusted for the health status of recipients;

22 (ii) allowing customized benefit packages and packages that include benefits not typically covered by the
23 traditional medicaid program, including but not limited to over-the-counter drugs, vision benefits, and preventive
24 dental benefits; and

25 (iii) allowing a primary coordinated care organization to build benefit incentives into its capitated rates to
26 encourage recipients to obtain preventive care or participate in other activities designed to improve health
27 outcomes.

28 (7) The committee shall report on its findings to the 65th legislature. If the committee determines that
29 a primary coordinated care model is appropriate for the Montana medicaid program, the committee may develop
30 legislation for consideration by the 65th legislature or make recommendations on elements to include in legislation

1 to implement the model.

2

3 **NEW SECTION. Section 3. Medicaid wellness pilot project -- rulemaking authority.** (1) Subject to
4 any necessary approval from the centers for medicare and medicaid services, the department of public health
5 and human services shall administer a pilot project designed to assess whether providing incentives for a
6 recipient's participation in disease management and wellness activities improves the recipient's management of
7 chronic disease.

8 (2) The department shall offer an incentive to adult recipients for meeting established targets for
9 managing chronic disease. Subject to subsection (4), the department shall establish by rule the individuals to be
10 covered by the pilot project, the chronic diseases to be included in the pilot project, the criteria that must be met
11 to receive the incentive, and the duration and amount of the incentive to be offered.

12 (3) The department may undertake the pilot project in up to five counties, at least one of which must have
13 a significant Indian population. The pilot project must begin within 60 days after receipt of federal approval, if
14 required.

15 (4) The department may not require participation by recipients who reside in a long-term care facility as
16 defined in 50-5-101 or a community residential facility as defined in 76-2-411.

17 (5) The department shall collect and analyze information related to the pilot project to determine whether
18 the project resulted in better health outcomes for participants. The analysis may include but is not limited to the
19 incentives provided, the health conditions of the participants, the number of participants who met established
20 goals, and to the extent possible, whether participants who met the goals used fewer medicaid services than:

21 (a) participants who did not meet the goals; and

22 (b) recipients with similar medical conditions in counties that were not included in the pilot project.

23

24 **NEW SECTION. Section 4. Legislative findings -- comprehensive medication management**
25 **services.** (1) The legislature finds that comprehensive medication management services allow an assessment
26 of an individual's medications to ensure that:

27 (a) the medications are appropriate and effective for the medical conditions being treated;

28 (b) the medications are safe when taken in conjunction with any other medications prescribed to the
29 patient; and

30 (c) the patient is able and willing to take the medications as intended.

1 (2) The legislature further finds that providing comprehensive medication management services to
2 medicaid recipients who are taking five or more prescription medications to treat two or more chronic medical
3 conditions will improve health outcomes and generate savings to the medicaid program through a reduction in
4 the use of emergency room care, provider visits, hospital costs, and admissions to long-term care facilities.

5 (3) (a) Comprehensive medication management services provided under this section include the
6 following services:

7 (i) assessment of the recipient's health status, including a review of the individual's personal medication
8 experience, history, preferences, and beliefs and the identification and recording of the individual's actual use
9 patterns of all prescribed medications and over-the-counter medications and supplements, including bioactive
10 supplements;

11 (ii) documentation of the recipient's current clinical status and the clinical goals of therapy for each
12 identified chronic condition for which medication therapy is indicated;

13 (iii) assessment of each medication prescribed for appropriateness, effectiveness, safety, and adherence
14 to use, with a focus on achieving the desired clinical outcomes and recipient goals;

15 (iv) identification of all drug therapy problems, including additions, deletions, or changes in dosages
16 needed to achieve desired clinical outcomes;

17 (v) development, with the recipient, of a written comprehensive medication care plan that addresses
18 recommended steps, including any changes needed to achieve optimal outcomes; and

19 (vi) documentation and follow-up evaluations with the recipient to determine the effects of changes,
20 reassess clinical outcomes, and recommend further therapeutic changes to achieve desired clinical outcomes
21 within the context of a broader coordinated care team.

22 (b) The services must be provided in accordance with standards of professional practice for the
23 individuals authorized to provide the services.

24 (4) The department of public health and human services shall plan for and, to the extent allowed by law,
25 implement comprehensive medication management services for the medicaid program using the guidelines
26 established in this section. In developing the plan, the department shall work with representatives from the
27 following entities to assess the costs and savings associated with providing the services:

28 (a) a chain pharmacy;

29 (b) an independent pharmacy;

30 (c) a statewide organization representing Montana pharmacists;

- 1 (d) a statewide organization representing Montana physicians; and
2 (e) the university of Montana school of pharmacy.
- 3 (5) The department shall report no later than August 15, 2016, to an appropriate legislative committee
4 on the results of its planning efforts, including but not limited to:
- 5 (a) the potential costs and savings associated with providing comprehensive medication management
6 services;
- 7 (b) any information technology needs related to providing comprehensive medication management
8 services; and
- 9 (c) the need for changes to state law to allow the department to fully implement comprehensive
10 medication management services for medicaid recipients identified in subsection (2).
- 11 (6) (a) To be eligible for reimbursement for comprehensive medication management services, an
12 individual must be:
- 13 (i) a physician licensed pursuant to Title 37, chapter 3;
14 (ii) a pharmacist licensed pursuant to Title 37, chapter 7;
15 (iii) an advanced practice registered nurse licensed pursuant to Title 37, chapter 8, if the nurse is
16 authorized to prescribe medication; or
- 17 (iv) a physician assistant licensed pursuant to Title 37, chapter 20; and
- 18 (v) practicing in an ambulatory care setting as part of a multidisciplinary team or using a structured
19 patient care process that is offered in a private or semiprivate recipient care area, in a home setting, or by
20 telephone in direct communication with the recipient if a hardship prevents the recipient from obtaining the
21 services in person.
- 22 (b) Reimbursement for comprehensive medication management services may be made on a
23 fee-for-service basis.
- 24 (c) An individual providing comprehensive medication management services must be using an electronic
25 system that is able to:
- 26 (i) adequately record and store medication care plans for use by a recipient and a prescriber;
27 (ii) generate reports to document identification and resolution of drug therapy problems and show
28 changes in the achievement of clinical goals;
- 29 (iii) substantiate all of the elements of comprehensive medication management services as described
30 in subsection (3);

1 (iv) document interactions with recipients and prescribers; and

2 (v) adequately capture the work performed to substantiate the appropriate complexity level for billing in
3 a fee-for-service or managed care arrangement.

4
5 **Section 5.** Section 53-6-101, MCA, is amended to read:

6 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid
7 program established for the purpose of providing necessary medical services to eligible persons who have need
8 for medical assistance. The Montana medicaid program is a joint federal-state program administered under this
9 chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall
10 administer the Montana medicaid program.

11 (2) The department and the legislature shall consider the following funding principles when considering
12 changes in medicaid policy that either increase or reduce services:

13 (a) protecting those persons who are most vulnerable and most in need, as defined by a combination
14 of economic, social, and medical circumstances;

15 (b) giving preference to the elimination or restoration of an entire medicaid program or service, rather
16 than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

17 (c) giving priority to services that employ the science of prevention to reduce disability and illness,
18 services that treat life-threatening conditions, and services that support independent or assisted living, including
19 pain management, to reduce the need for acute inpatient or residential care.

20 (3) Medical assistance provided by the Montana medicaid program includes the following services:

21 (a) inpatient hospital services;

22 (b) outpatient hospital services;

23 (c) other laboratory and x-ray services, including minimum mammography examination as defined in
24 33-22-132;

25 (d) skilled nursing services in long-term care facilities;

26 (e) physicians' services;

27 (f) nurse specialist services;

28 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

29 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in
30 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

- 1 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant
2 women;
- 3 (j) services that are provided by physician assistants within the scope of their practice and that are
4 otherwise directly reimbursed as allowed under department rule to an existing provider;
- 5 (k) health services provided under a physician's orders by a public health department;
- 6 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2); and
- 7 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
8 provided in 33-22-153.
- 9 (4) Medical assistance provided by the Montana medicaid program may, as provided by department rule,
10 also include the following services:
- 11 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
12 practitioners within the scope of their practice as defined by state law;
- 13 (b) home health care services;
- 14 (c) private-duty nursing services;
- 15 (d) dental services;
- 16 (e) physical therapy services;
- 17 (f) mental health center services administered and funded under a state mental health program
18 authorized under Title 53, chapter 21, part 10;
- 19 (g) clinical social worker services;
- 20 (h) prescribed drugs in accordance with subsection (9), dentures, and prosthetic devices;
- 21 (i) prescribed eyeglasses;
- 22 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 23 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 24 (l) services of professional counselors licensed under Title 37, chapter 23;
- 25 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 26 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case
27 management services for the mentally ill;
- 28 (o) services of psychologists licensed under Title 37, chapter 17;
- 29 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h),
30 in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

1 (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

2 (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as
3 described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
4 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
5 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
6 category of assistance.

7 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S.
8 department of health and human services, the department may implement limited medicaid benefits, to be known
9 as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined
10 in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult
11 recipients of medical assistance only who are covered under a group related to a program providing financial
12 assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection
13 (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its
14 discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds
15 appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the
16 provision of a particular service is commonly covered by private health insurance plans. However, a recipient who
17 is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq.,
18 or is less than 21 years of age is entitled to full medicaid coverage.

19 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
20 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
21 and coinsurance for persons not otherwise eligible for medicaid.

22 (8) The department may set rates for medical and other services provided to recipients of medicaid and
23 may enter into contracts for delivery of services to individual recipients or groups of recipients.

24 (9) The services provided under this part may be only those that are medically necessary and that are
25 the most efficient and cost-effective. If the department provides coverage of prescription drugs and durable
26 medical equipment, the department shall require that the lowest-cost drug or item of durable medical equipment
27 be prescribed for an individual unless the prescriber determines that a more expensive drug or item of durable
28 medical equipment is medically necessary.

29 (10) The amount, scope, and duration of services provided under this part must be determined by the
30 department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

1 (11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

2 (12) If available funds are not sufficient to provide medical assistance for all eligible persons, the
3 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
4 services made available under the Montana medicaid program after taking into consideration the funding
5 principles set forth in subsection (2)."

6

7 **Section 6.** Section 53-6-131, MCA, is amended to read:

8 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may
9 be granted to a person who is determined by the department of public health and human services, in its
10 discretion, to be eligible as follows:

11 (a) The person receives or is considered to be receiving supplemental security income benefits under
12 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess
13 of the applicable medical assistance limits.

14 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if that
15 person were to apply for that assistance.

16 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the
17 person would be receiving assistance under the program in subsection (1)(a).

18 (d) The person is:

19 (i) under 21 years of age and in foster care under the supervision of the state or was in foster care under
20 the supervision of the state and has been adopted as a child with special needs; or

21 (ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

22 (e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

23 (i) the person's income does not exceed the income level specified for federally aided categories of
24 assistance and the person's resources are within the resource standards of the federal supplemental security
25 income program; or

26 (ii) the person, while having income greater than the medically needy income level specified for federally
27 aided categories of assistance:

28 (A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically
29 needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the
30 department the amount by which the person's income exceeds the medically needy income level specified for

1 federally aided categories of assistance; and

2 (B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the
3 person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal
4 supplemental security income program; or

5 (II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person
6 is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the
7 resource standards adopted by the department.

8 (f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

9 (g) The person is under 19 years of age and lives with a family having a combined income that does not
10 exceed 185% of the federal poverty level. The department may establish lower income levels to the extent
11 necessary to maximize federal matching funds provided for in 53-4-1104.

12 (2) The department may establish income and resource limitations. Limitations of income and resources
13 must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility
14 resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided
15 for in 53-4-1104.

16 (3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for
17 medicaid-eligible persons participating in the medicare program and may, within the discretion of the department,
18 pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible
19 person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus
20 Budget Reconciliation Act of 1989, Public Law 101-239, who:

21 (a) has income that does not exceed income standards as may be required by the Social Security Act;
22 and

23 (b) has resources that do not exceed standards that the department determines reasonable for purposes
24 of the program.

25 (4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and
26 similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

27 (5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department
28 of health and human services, the department of public health and human services may grant eligibility for basic
29 medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined
30 in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program.

1 A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C.
2 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

3 (6) The department, under the Montana medicaid program, may provide, if a waiver is not available from
4 the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42
5 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may
6 be designated by the act for receipt of assistance.

7 (7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants
8 and pregnant women whose family income does not exceed income standards adopted by the department that
9 comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards
10 that the department determines reasonable for purposes of the program.

11 (8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit
12 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to
13 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other
14 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

15 (9) A person described in subsection (7) must be provided continuous eligibility for medical assistance,
16 as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

17 (10) Full medical assistance under the Montana medicaid program may be granted to an individual during
18 the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous
19 condition of the breast or cervix, if the individual:

20 (a) has been screened for breast and cervical cancer under the Montana breast and cervical health
21 program funded by the centers for disease control and prevention program established under Title XV of the
22 Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

23 (b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or
24 cervix;

25 (c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

26 (d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

27 (e) has not attained 65 years of age.

28 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with
29 disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42
30 U.S.C. 1396o.

1 (12) The department shall provide medicaid coverage to an individual eligible for coverage pursuant to
2 [section 1] according to the requirements, including income eligibility and resource limitations, established in
3 [section 1]."

4
5 **NEW SECTION. Section 7. Appropriations.** (1) There is appropriated \$35,000 from the general fund
6 to the legislative fiscal division for the biennium beginning July 1, 2015, to carry out the study provided for in
7 [section 2].

8 (2) There is appropriated \$5 million from the general fund and \$11 million from the federal special
9 revenue fund to the department of public health and human services for each year of the biennium beginning July
10 1, 2015, to be used to increase the number of slots in the following home and community based services waiver
11 programs:

- 12 (a) the supports for community working and living waiver in the developmental services division;
13 (b) the 0208 comprehensive waiver in the developmental services division;
14 (c) the severe and disabling mental illness waiver in the addictive and mental disorders division; and
15 (d) the Montana big sky waiver in the senior and long term care division.

16
17 **NEW SECTION. Section 8. Codification instruction.** [Sections 1, 3, and 4] are intended to be codified
18 as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [sections
19 1, 3, and 4].

20

21 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2015.

22

- END -