

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE MEDICAID PROGRAM TO COVER
5 NONELDERLY, NONPREGNANT, AND NONDISABLED ADULTS; ALLOWING FLEXIBILITY IN
6 ADMINISTRATION OF BENEFITS FOR THE EXPANSION POPULATION; CREATING SPECIAL REVENUE
7 ACCOUNTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 53-6-113,
8 53-6-131, 53-6-132, AND 53-6-133, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
9 DATE."

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

12
13 NEW SECTION. **Section 1. Coverage of medicaid expansion group.** The department may provide
14 coverage to individuals eligible for medicaid pursuant to 53-21-131(1)(h) by using the most cost-effective of the
15 following approaches:

- 16 (1) administration of the program by the department;
- 17 (2) contracting with a single insurance carrier for a fully insured product; or
- 18 (3) contracting with a third-party administrator to assist in the administration of the coverage plan by:
 - 19 (a) establishing networks of health care providers; and
 - 20 (b) paying claims submitted by health care providers.

21
22 NEW SECTION. **Section 2. Special revenue accounts -- statutory appropriations.** (1) (a) There is
23 an account in the federal special revenue fund to the credit of the department to pay for the federal share of the
24 costs of providing medicaid services to individuals who are eligible pursuant to 53-21-131(1)(h).

25 (b) The federal medical assistance percentage received pursuant to 42 U.S.C. 1396d(y) must be
26 deposited in the federal special revenue account.

27 (2) (a) There is an account in the state special revenue fund to the credit of the department to pay the
28 state share of the costs of providing medicaid services to individuals who are eligible pursuant to 53-21-131(1)(h).

29 (b) General fund money in the amount necessary to match the federal medical assistance percentage
30 received pursuant to 42 U.S.C. 1396d(y) must be transferred into the state special revenue account.

1 (3) Money in the federal special revenue and state special revenue accounts provided for in this section
 2 is statutorily appropriated, as provided in 17-7-502, to the department for the costs of providing medicaid benefits
 3 to individuals who meet the medicaid eligibility requirements of 53-6-131(1)(h).

4

5 **Section 3.** Section 17-7-502, MCA, is amended to read:

6 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 7 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 8 need for a biennial legislative appropriation or budget amendment.

9 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 10 of the following provisions:

11 (a) The law containing the statutory authority must be listed in subsection (3).

12 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 13 appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;
 15 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;
 16 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
 17 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 18 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 19 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105;
 20 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503;
 21 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; [section 2]; 53-9-113;
 22 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;
 23 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161;
 24 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

25 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 26 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 27 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 28 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 29 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 30 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion

1 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
 2 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
 3 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
 4 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
 5 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
 6 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
 7 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
 8 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
 9 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
 10 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
 11 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
 12 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,
 13 2015.)"

14

15 **Section 4.** Section 53-6-113, MCA, is amended to read:

16 **"53-6-113. (Temporary) Department to adopt rules.** (1) The department shall adopt appropriate rules
 17 necessary for the administration of the Montana medicaid program as provided for in this part and that may be
 18 required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social
 19 Security Act, 42 U.S.C. 1396, et seq., as amended.

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

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

29 (a) the availability of appropriated funds;

30 (b) the actual cost of services;

1 (c) the quality of services;

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

3 (e) the availability of services.

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

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

8 (6) The department may adopt rules consistent with this part to govern eligibility for the Montana
9 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited
10 to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family
11 responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient
12 information, and cooperation with the state agency administering the child support enforcement program under
13 Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below
14 \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty
15 level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

16 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
17 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
18 if funds appropriated are not sufficient to provide medical care for all eligible persons.

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

21 (a) participation in managed care;

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

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

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

30 (10) The department may adopt rules for third-party administration of medical services to individuals

1 eligible for medical assistance pursuant to 53-6-131(1)(h), including but not limited to rules on the responsibilities
2 and requirements for the third-party administrator, provider requirements and reimbursements, and coverage for
3 additional health care services not available through an arrangement with a third-party administrator.

4 ~~(10)~~(11) The department may adopt rules for implementing and administering one or more
5 patient-centered medical home programs. The rules may include but are not limited to provider qualifications,
6 coverage groups, services coverage, measures to ensure the appropriateness and quality of services delivered,
7 payment rates and fees, and utilization measures. In implementing and administering patient-centered medical
8 home programs, the department shall use only health care providers that have been qualified by the
9 commissioner and authorized to use the designation of a patient-centered medical home. The department shall
10 use the standards adopted by the commissioner for patient-centered medical homes under 33-40-105, except
11 for those standards relating to settling payment rates and fees and any standards that may conflict with federal
12 medicaid requirements. (Terminates December 31, 2017--sec. 14, Ch. 363, L. 2013.)

13 **53-6-113. (Effective January 1, 2018) Department to adopt rules.** (1) The department shall adopt
14 appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part
15 and that may be required by federal laws and regulations governing state participation in medicaid under Title
16 XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

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

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

- 26 (a) the availability of appropriated funds;
27 (b) the actual cost of services;
28 (c) the quality of services;
29 (d) the professional knowledge and skills necessary for the delivery of services; and
30 (e) the availability of services.

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

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

5 (6) The department may adopt rules consistent with this part to govern eligibility for the Montana
6 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited
7 to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family
8 responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient
9 information, and cooperation with the state agency administering the child support enforcement program under
10 Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below
11 \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty
12 level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

13 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
14 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
15 if funds appropriated are not sufficient to provide medical care for all eligible persons.

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

- 18 (a) participation in managed care;
19 (b) selection and qualifications for providers of managed care; and
20 (c) standards for the provision of managed care.

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

27 (10) The department may adopt rules for third-party administration of medical services to individuals
28 eligible for medical assistance pursuant to 53-6-131(1)(h), including but not limited to rules on the responsibilities
29 and requirements for the third-party administrator, provider requirements and reimbursements, and coverage for
30 additional health care services not available through an arrangement with a third-party administrator."

1

2 **Section 5.** Section 53-6-131, MCA, is amended to read:

3 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may
4 be granted to a person who is determined by the department of public health and human services, in its
5 discretion, to be eligible as follows:

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

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

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

13 (d) The person is:

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

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

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

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

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

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

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

30 (II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person

1 is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the
2 resource standards adopted by the department.

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

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

7 (h) The person is between 18 and 65 years of age, is not pregnant or disabled, and is eligible pursuant
8 to 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and related federal regulations.

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

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

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

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

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

24 (5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department
25 of health and human services, the department of public health and human services may grant eligibility for basic
26 medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined
27 in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program.
28 A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C.
29 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

30 (6) The department, under the Montana medicaid program, may provide, if a waiver is not available from

1 the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42
2 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may
3 be designated by the act for receipt of assistance.

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

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

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

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

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

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

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

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

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

25 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with
26 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
27 U.S.C. 1396o.

28 (12) The department may establish medicaid eligibility consistent with the modified adjusted gross
29 income criteria allowed under federal regulations."

30

1 **Section 6.** Section 53-6-132, MCA, is amended to read:

2 **"53-6-132. Application for assistance -- exception.** (1) ~~Subject to subsection (2), application for~~
3 ~~assistance under this part may be made in any local office of public assistance. The department shall adopt~~
4 ~~medicaid eligibility procedures and criteria that are consistent with federal requirements.~~

5 (2) ~~The application for medical assistance must be presented in the manner and on the a form prescribed~~
6 ~~by the department.~~

7 (3) ~~All individuals wishing to apply must have the opportunity to do so.~~

8 (2) ~~Notwithstanding the provisions of subsection (1), the department may designate an entity other than~~
9 ~~the local office of public assistance to determine eligibility for medicaid managed care services.~~

10 (4) ~~The department may participate with federal and state programs and agencies in the coordination~~
11 ~~of procedures and criteria for eligibility determination, including use of interactive electronic networks and~~
12 ~~databases and other appropriate measures."~~

13

14 **Section 7.** Section 53-6-133, MCA, is amended to read:

15 **"53-6-133. Eligibility determination.** (1) ~~The local office of public assistance shall promptly determine~~
16 ~~the eligibility of each applicant under this part must be determined in accordance with the rules of the department.~~
17 ~~Each applicant must be informed of the right to a fair hearing appeal a determination and of the confidential nature~~
18 ~~of the information given. ~~The department, through the local office of public assistance, shall, after the hearing,~~~~
19 ~~determine whether or not If the applicant is eligible for assistance under this part, and aid assistance must be~~
20 ~~furnished promptly to eligible persons. Each applicant must receive written notice of the decision concerning the~~
21 ~~applicant's application; and the right of appeal is secured to the applicant under the procedures of 53-2-606.~~

22 (2) ~~The local office of public assistance and the department may accept the federal social security~~
23 ~~administration's determination of eligibility for supplemental security income, Title XVI of the Social Security Act,~~
24 ~~as qualifying the eligible individuals to receive medical assistance under this part."~~

25

26 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 and 2] are intended to be codified
27 as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [sections
28 1 and 2].

29

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

