

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE EXPANSION OF THE MEDICAID PROGRAM
5 AS PROVIDED BY PUBLIC LAW 111-148 AND PUBLIC LAW 111-152; ESTABLISHING ELIGIBILITY
6 PROCEDURES AND CRITERIA; INCREASING THE INSURANCE PREMIUM TAX TO ASSIST WITH MEDICAID
7 EXPANSION COSTS; CREATING A SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 33-2-705,
8 33-2-708, 53-6-131, 53-6-132, AND 53-6-133, MCA; AND PROVIDING AN EFFECTIVE DATE AND A
9 CONTINGENT TERMINATION DATE."

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

12
13 **NEW SECTION. Section 1. Healthy Montana special revenue account.** (1) There is an account in
14 the state special revenue account to be known as the healthy Montana special revenue account. The amount
15 collected under 33-2-708(3)(c) from the insurance premium tax must be deposited into the account. Any interest
16 or income derived from the account must be deposited in the account.

17 (2) Money in the account must be used to match the federal medical assistance percentage received
18 for the medicaid program pursuant to 42 U.S.C. 1396d(y).

19
20 **Section 2.** Section 33-2-705, MCA, is amended to read:

21 **"33-2-705. Report on premiums and other consideration -- tax.** (1) Each authorized insurer and each
22 formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file
23 with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner
24 showing total direct premium income, including policy, membership, and other fees, premiums paid by application
25 of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new
26 or additional or extended or renewed insurance, charges for payment of premium in installments, and all other
27 consideration for insurance from all kinds and classes of insurance, whether designated as a premium or
28 otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar
29 year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana,
30 with proper proportionate allocation of premium as to property, subjects, or risks in Montana insured under

1 policies or contracts covering property, subjects, or risks located or resident in more than one state, after
2 deducting from the total direct premium income applicable cancellations, returned premiums, the unabsorbed
3 portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life
4 policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings,
5 savings coupons, and other similar returns paid or credited to policyholders with respect to the policies. As to title
6 insurance, "premium" includes the total charge for the insurance. A deduction may not be made of the cash
7 surrender values of policies. Considerations received on annuity contracts may not be included in total direct
8 premium income and are not subject to tax.

9 (2) Coincident with the filing of the tax report referred to in subsection (1), each insurer shall pay to the
10 commissioner a tax upon the net premiums computed at the rate of ~~2-3/4%~~ 2.80%.

11 (3) That portion of the tax paid under this section by an insurer on account of premiums received for fire
12 insurance must be separately specified in the report required by the commissioner for apportionment as provided
13 by law. When insurance against fire is included with insurance of property against other perils at an undivided
14 premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the
15 coverage as must be stated in the report and as may be approved or accepted by the commissioner.

16 (4) With respect to authorized insurers, the premium tax provided by this section must be payment in
17 full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes,
18 licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes
19 on real and tangible personal property located in this state, and taxes payable under 50-3-109.

20 (5) The commissioner may suspend or revoke the certificate of authority of any insurer that fails to pay
21 its taxes as required under this section.

22 (6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an
23 insurer who fails to pay the tax required under this section a fine of \$100 plus interest on the delinquent amount
24 at the annual interest rate of 12%.

25 (7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium
26 tax under this section during the year in which tax liability is accrued."
27

28 **Section 3.** Section 33-2-708, MCA, is amended to read:

29 **"33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall
30 collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct

- 1 the business of insurance in Montana.
- 2 (b) The commissioner shall collect certain additional fees as follows:
- 3 (i) nonresident insurance producer's license:
- 4 (A) application for original license, including issuance of license, if issued, \$100;
- 5 (B) biennial renewal of license, \$50;
- 6 (C) lapsed license reinstatement fee, \$100;
- 7 (ii) resident insurance producer's license lapsed license reinstatement fee, \$100;
- 8 (iii) surplus lines insurance producer's license:
- 9 (A) application for original license and for issuance of license, if issued, \$50;
- 10 (B) biennial renewal of license, \$100;
- 11 (C) lapsed license reinstatement fee, \$200;
- 12 (iv) insurance adjuster's license:
- 13 (A) application for original license, including issuance of license, if issued, \$50;
- 14 (B) biennial renewal of license, \$100;
- 15 (C) lapsed license reinstatement fee, \$200;
- 16 (v) insurance consultant's license:
- 17 (A) application for original license, including issuance of license, if issued, \$50;
- 18 (B) biennial renewal of license, \$100;
- 19 (C) lapsed license reinstatement fee, \$200;
- 20 (vi) viatical settlement broker's license:
- 21 (A) application for original license, including issuance of license, if issued, \$50;
- 22 (B) biennial renewal of license, \$100;
- 23 (C) lapsed license reinstatement fee, \$200;
- 24 (vii) resident and nonresident rental car entity producer's license:
- 25 (A) application for original license, including issuance of license, if issued, \$100;
- 26 (B) quarterly filing fee, \$25;
- 27 (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in
- 28 accordance with 33-20-1303(2)(b), \$50;
- 29 (ix) navigator certification:
- 30 (A) application for original certification, including issuance of certificate if issued, \$100;

- 1 (B) biennial renewal of certification, \$50;
- 2 (C) lapsed certification reinstatement fee, \$100;
- 3 (x) 50 cents for each page for copies of documents on file in the commissioner's office.
- 4 (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer,
- 5 a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee
- 6 for the biennial renewal of a license.
- 7 (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as
- 8 required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization
- 9 submitting courses or programs for review in any biennium.
- 10 (b) Insurers and associations composed of members of the insurance industry are exempt from the
- 11 charge in subsection (2)(a).
- 12 (3) (a) Except as provided in ~~subsection (3)(b)~~ subsections (3)(b) and (3)(c), the commissioner shall
- 13 promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those
- 14 amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.
- 15 (b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue
- 16 account provided for in 53-4-1115.
- 17 (c) The commissioner shall deposit 0.05% of the money collected under 33-2-705 in the healthy Montana
- 18 special revenue account provided for in [section 1].
- 19 ~~(c)~~(d) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title
- 20 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.
- 21 (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts
- 22 in excess of \$10 will be refunded."

23

24 **Section 4.** Section 53-6-131, MCA, is amended to read:

25 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may

26 be granted to a person who is determined by the department of public health and human services, in its

27 discretion, to be eligible as follows:

28 (a) The person receives or is considered to be receiving supplemental security income benefits under

29 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess

30 of the applicable medical assistance limits.

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

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

5 (d) The person is:

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

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

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

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

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

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

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

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

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

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

29 (h) The person meets the eligibility requirements of Public Law 111-148, Public Law 111-152, and federal
30 regulations implementing those laws.

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

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

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

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

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

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

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

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

30 (8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit

1 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to
 2 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other
 3 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

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

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

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

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

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

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

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

17 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with
 18 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
 19 U.S.C. 1396o.

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

22

23 **Section 5.** Section 53-6-132, MCA, is amended to read:

24 **"53-6-132. Application for assistance -- exception.** (1) ~~Subject to subsection (2), application for~~
 25 ~~assistance under this part may be made in any local office of public assistance~~ The department shall adopt
 26 medicaid eligibility procedures and criteria that are consistent with federal requirements.

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

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

30 ~~(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than~~

1 ~~the local office of public assistance to determine eligibility for medicaid managed care services.~~

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

5

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

7 **"53-6-133. Eligibility determination.** (1) ~~The local office of public assistance shall promptly determine~~
 8 ~~the eligibility of each applicant under this part must be determined in accordance with the rules of the department.~~
 9 Each applicant must be informed of the right to a fair hearing appeal a determination and of the confidential nature
 10 of the information given. ~~The department, through the local office of public assistance, shall, after the hearing,~~
 11 ~~determine whether or not~~ If the applicant is eligible for assistance under this part, and aid assistance must be
 12 furnished promptly ~~to eligible persons.~~ Each applicant must receive written notice of the decision concerning the
 13 applicant's application; and the right of appeal is ~~secured to the applicant under the procedures of 53-2-606.~~

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

17

18 NEW SECTION. Section 7. Codification instruction. [Section1] is intended to be codified as an
 19 integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

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21 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2015.

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23 NEW SECTION. Section 9. Contingent termination. (1) Section 53-6-131(1)(h) terminates on the
 24 effective implementation date after enactment by the federal government of any provision of law that reduces
 25 below 90% the federal medical assistance percentage for medical assistance provided to individuals eligible for
 26 medicaid coverage pursuant to 53-6-131(1)(h).

27 (2) The governor's office of budget and program planning shall certify to the governor the occurrence of
 28 the contingency. The governor shall transmit a copy of the certification to the code commissioner.

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- END -