

HOUSE BILL NO. 337

INTRODUCED BY J. KARJALA

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE RESOURCE LIMITS FOR WORKERS WITH DISABILITIES WHO ARE RECEIVING MEDICAID; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 53-6-113, MCA, is amended to read:

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

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

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

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

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

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

3 (6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana  
4 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited  
5 to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family  
6 responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient  
7 information, and cooperation with the state agency administering the child support enforcement program under  
8 Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

9 (b) The department may not apply financial criteria below \$15,000 for resources other than income in  
10 determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage  
11 groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

12 (c) The department may not apply financial criteria below \$15,000 for an individual and \$22,500 for a  
13 couple for resources other than income in determining the eligibility of individuals for the medicaid program for  
14 workers with disabilities provided for in 53-6-195.

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

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

20 (a) participation in managed care;

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

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

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

29 (10) The department may adopt rules for implementing and administering one or more patient-centered  
30 medical home programs. The rules may include but are not limited to provider qualifications, coverage groups,

1 services coverage, measures to ensure the appropriateness and quality of services delivered, payment rates and  
2 fees, and utilization measures. In implementing and administering patient-centered medical home programs, the  
3 department shall use only health care providers that have been qualified by the commissioner and authorized  
4 to use the designation of a patient-centered medical home. The department shall use the standards adopted by  
5 the commissioner for patient-centered medical homes under 33-40-105, except for those standards relating to  
6 settling payment rates and fees and any standards that may conflict with federal medicaid requirements.  
7 (Terminates December 31, 2017--sec. 14, Ch. 363, L. 2013.)

8 **53-6-113. (Effective January 1, 2018) Department to adopt rules.** (1) The department shall adopt  
9 appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part  
10 and that may be required by federal laws and regulations governing state participation in medicaid under Title  
11 XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

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

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

21 (a) the availability of appropriated funds;

22 (b) the actual cost of services;

23 (c) the quality of services;

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

25 (e) the availability of services.

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

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

30 (6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana

1    medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited  
2    to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family  
3    responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient  
4    information, and cooperation with the state agency administering the child support enforcement program under  
5    Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

6           **(b)** The department may not apply financial criteria below \$15,000 for resources other than income in  
7    determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage  
8    groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

9           **(c)** The department may not apply financial criteria below \$15,000 for an individual and \$22,500 for a  
10 couple for resources other than income in determining the eligibility of individuals for the medicaid program for  
11 workers with disabilities provided for in 53-6-195.

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

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

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

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

26  
27           **Section 2.** Section 53-6-131, MCA, is amended to read:

28           **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may  
29    be granted to a person who is determined by the department of public health and human services, in its  
30    discretion, to be eligible as follows:

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

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

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

8 (d) The person is:

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

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

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

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

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

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

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

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

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

29 (g) The person is under 19 years of age and lives with a family having a combined income that does not  
30 exceed 185% of the federal poverty level. The department may establish lower income levels to the extent

1 necessary to maximize federal matching funds provided for in 53-4-1104.

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

6 (b) The department may not count as a resource an individual retirement account that was established  
7 by a person participating in the medicaid program for workers with disabilities provided for in 53-6-195 if:

8 (i) the person is no longer eligible for coverage under 53-6-195; and

9 (ii) the individual retirement account was established during the time the person was receiving benefits  
10 through the medicaid program for workers with disabilities.

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

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

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

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

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

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

1 be designated by the act for receipt of assistance.

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

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

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

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

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

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

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

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

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

23 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with  
24 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  
25 U.S.C. 1396o."

26

27 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2015.

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