

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MEDICAID BUY-IN PROGRAM TO INCLUDE  
5 CHILDREN WITH PHYSICAL OR DEVELOPMENTAL DISABILITIES; EXTENDING RULEMAKING  
6 AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 53-6-113, 53-6-131, AND 53-6-  
7 195, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

10  
11 **Section 1.** Section 53-6-113, MCA, is amended to read:

12 **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary  
13 for the administration of the Montana medicaid program as provided for in this part and that may be required by  
14 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,  
15 42 U.S.C. 1396, et seq., as amended.

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

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

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

1 (e) the availability of services.

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

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

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

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

15 (c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a  
16 couple for resources other than income in determining the eligibility of individuals under 53-6-195(1)(a) for the  
17 medicaid buy-in program for workers with disabilities ~~provided for in 53-6-195.~~

18 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that  
19 provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be  
20 amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

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

23 (a) participation in managed care;

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

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

26 (9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for  
27 extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who  
28 lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the

1 department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended  
2 medical assistance will be provided. The department, in exercising its discretion to set income limits and  
3 duration of assistance, may consider the amount of funds appropriated by the legislature.

4 (10) Unless required by federal law or regulation, the department may not adopt rules that exclude a  
5 child from medicaid services or require prior authorization for a child to access medicaid services if the child  
6 would be eligible for or able to access the services without prior authorization if the child was not in foster care."

7

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

9 **"53-6-131. (Temporary) Eligibility requirements.** (1) Medical assistance under the Montana  
10 medicaid program may be granted to a U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641 who is  
11 determined by the department of public health and human services to be a Montana resident and, in its  
12 discretion, to be eligible as follows:

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

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

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

20 (d) The person is:

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

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

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

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

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

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

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

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

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

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

17 (2) The department shall require an applicant to provide proof of the applicant's residency in this  
18 state.

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

23 (b) The department may not count as a resource an individual retirement account that was  
24 established by a person participating in the medicaid buy-in program ~~for workers with disabilities~~ provided for in  
25 53-6-195 if:

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

27 (ii) the individual retirement account was established during the time the person was eligible for, under  
28 53-6-195(1)(a), and receiving benefits through the medicaid program for workers with disabilities.

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

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

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

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

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

19 (7) The department, under the Montana medicaid program, may provide, if a waiver is not available  
20 from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act,  
21 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons  
22 that may be designated by the act for receipt of assistance.

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

27 (9) Subject to appropriations, the department may cooperate with and make grants to a nonprofit  
28 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to

1 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other  
2 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

3 (10) A person described in subsection (8) must be provided continuous eligibility for medical  
4 assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

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

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

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

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

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

15 and

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

17 (12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers  
18 and children with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII),  
19 (a)(10)(A)(ii)(XIX), and (r)(2) and 42 U.S.C. 1396o.

20 (13) Nothing in subsection (1) may be construed as allowing the department to deny enrollment for a  
21 reason that is impermissible under federal law or regulation. *(Terminates June 30, 2025, on occurrence of*  
22 *contingency--sec. 48, Ch. 415, L. 2019.)*

23 **53-6-131. (Effective on occurrence of contingency) Eligibility requirements.** (1) Medical  
24 assistance under the Montana medicaid program may be granted to a person who is determined by the  
25 department of public health and human services, in its discretion, to be eligible as follows:

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

1 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if  
2 that 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,  
4 the 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  
7 under 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)  
10 and:

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

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

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

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

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

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

27 (g) The person is under 19 years of age and lives with a family having a combined income that does  
28 not 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  
7 established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-  
8 195 if:

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

10 (ii) the individual retirement account was established during the time the person was eligible for, under  
11 53-6-195(1)(a), and receiving benefits through the medicaid program for workers with disabilities.

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

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

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

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

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



1 53-6-101.

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

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

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

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

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

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

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

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

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

26 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

1 with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII),  
2 (a)(10)(A)(ii)(XIX), and (r)(2) and 42 U.S.C. 1396o."

3

4 **Section 3.** Section 53-6-195, MCA, is amended to read:

5 **"53-6-195. Medicaid buy-in program for workers or children with disabilities -- purpose --**  
6 **eligibility -- participant costs.** (1) If appropriations specific for this purpose are provided by the legislature and  
7 federal approval of the necessary amendments to the state medicaid plan is secured, the department shall  
8 administer a medicaid program that allows individuals with disabilities to participate in the medicaid program if  
9 they:

10 (a) obtain employment that increases their incomes above eligibility limits; or

11 (b) are under 19 years of age and meet the requirements of subsection (5).

12 (2) Participants in the program may be required to pay a portion of the costs for participation. The  
13 purpose of the program is:

14 (a) to support employment for individuals with disabilities by providing medicaid coverage to  
15 individuals who would otherwise be ineligible for medicaid due to earnings that exceed the medicaid program's  
16 income limits; and

17 (b) to provide medical, habilitative, and rehabilitative services to children with physical or  
18 developmental disabilities at an early age to prevent or reduce their future need for services.

19 ~~(2)~~(3) The medicaid program provided for under this section must be implemented in accordance with  
20 the provisions of 42 U.S.C 1396a(a)(10)(A)(ii)(XIII), (a)(10)(A)(ii)(XIX), and (r)(2).

21 ~~(3)~~(4) An employed individual is eligible for the program under subsection (1)(a) if the individual:

22 (a) has a net family income that is less than 250% of the federal poverty level;

23 (b) would be categorically eligible for medicaid because the individual is disabled as defined under  
24 Title XVI of the Social Security Act, 42 U.S.C. 1382c, except that the person has or has had earnings above the  
25 level for substantial gainful activity;

26 (c) has income and resources equal to or below the income and resource limits established by the  
27 department by rule, which may be less stringent than the income and resource limits for supplemental security  
28 income benefits; and

1 (d) satisfies all other eligibility criteria established by the department by rule.

2 (5) A child is eligible for the program under subsection (1)(b) if the child:

3 (a) is considered disabled as defined in 42 U.S.C. 1382c(a)(3)(C); and

4 (b) has a combined family income of up to the maximum level allowed under 42 U.S.C.

5 1396a(cc)(1)(C)(i).

6 ~~(4)(6)~~ The department may establish:

7 (a) requirements for the employment status of ~~participants~~ workers participating in the program, the  
8 verification of their employment status, and permissible temporary breaks in employment;

9 (b) requirements, limitations, and definitions pertaining to the income and resources of participants;

10 (c) only to the extent allowed under 42 U.S.C. 1396o and in accordance with subsection (7),

11 requirements for payment of premiums, deductions, and cost sharing as a condition for participating in the  
12 program; and

13 (d) only to the extent required under 42 U.S.C. 1396(a)(cc)(2)(A):

14 (i) a requirement for a parent of a child eligible for the program under subsection (1)(b) to enroll in and  
15 pay premiums for family health insurance coverage if the parent's employer offers the coverage; and

16 (ii) a reduction to the premium imposed by the state by an amount that reflects the parent's premium  
17 contribution for private health insurance for a child with a disability.

18 (7) A parent of a child eligible for the medicaid buy-in program shall pay premiums. A family's  
19 premiums and cost sharing may not exceed:

20 (a) 5% of family income for families with an income at or below 200% of the federal poverty level; or

21 (b) 7.5% of family income for families with an income above 200% of the federal poverty level.

22 ~~(5)(8)~~ The department shall, to the extent allowed by appropriations levels and under applicable state  
23 and federal law, coordinate the medicaid program provided for under this section with other state and federal  
24 programs and resources that promote opportunities for persons with disabilities to retain, regain, and maintain  
25 employment."  
26

27 NEW SECTION. Section 4. Appropriation. The following amounts are appropriated to the  
28 department of public health and human services for the biennium beginning July 1, 2021, for the medicaid buy-

1 in program for children with disabilities:

2 Fiscal year 2022 \$2,230,017 federal special revenue fund

3 \$1,206,065 general fund

4 Fiscal year 2023 \$2,230,017 federal special revenue fund

5 \$1,206,065 general fund

6

7 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2021.

8

- END -