

1 SENATE BILL NO. 244

2 INTRODUCED BY B. BENNETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MEDICAID COVERAGE OF BARIATRIC SURGERY
5 AND OTHER WEIGHT-LOSS PROCEDURES; AMENDING SECTION 53-6-101, MCA; AND PROVIDING AN
6 EFFECTIVE DATE."

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

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10 **Section 1.** Section 53-6-101, MCA, is amended to read:

11 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana
12 medicaid program established for the purpose of providing necessary medical services to eligible persons who
13 have need for medical assistance. The Montana medicaid program is a joint federal-state program administered
14 under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The
15 department shall administer the Montana medicaid program.

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

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

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

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

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

26 (a) inpatient hospital services;

27 (b) outpatient hospital services;

28 (c) other laboratory and x-ray services, including minimum mammography examination as defined in

1 33-22-132;

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

3 (e) physicians' services;

4 (f) nurse specialist services;

5 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age,
6 in accordance with federal regulations and subsection (10)(b);

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

9 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant
10 women;

11 (j) services that are provided by physician assistants within the scope of their practice and that are
12 otherwise directly reimbursed as allowed under department rule to an existing provider;

13 (k) health services provided under a physician's orders by a public health department;

14 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);

15 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
16 provided in 33-22-153;

17 (n) bariatric surgery and other invasive medical procedures undertaken for the purpose of weight
18 reduction when recommended by a physician, physician assistant, or advanced practice registered nurse;

19 ~~(o)~~ for children 18 years of age and younger, habilitative services as defined in 53-4-1103; and

20 ~~(p)~~ services provided by a person certified in accordance with 37-2-318 to provide services in
21 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.

22 (4) Medical assistance provided by the Montana medicaid program may, as provided by department
23 rule, also include the following services:

24 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
25 practitioners within the scope of their practice as defined by state law;

26 (b) home health care services;

27 (c) private-duty nursing services;

28 (d) dental services;

- 1 (e) physical therapy services;
- 2 (f) mental health center services administered and funded under a state mental health program
- 3 authorized under Title 53, chapter 21, part 10;
- 4 (g) clinical social worker services;
- 5 (h) prescribed drugs, dentures, and prosthetic devices;
- 6 (i) prescribed eyeglasses;
- 7 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 8 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 9 (l) services of professional counselors licensed under Title 37, chapter 23;
- 10 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 11 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted
- 12 case management services for the mentally ill;
- 13 (o) services of psychologists licensed under Title 37, chapter 17;
- 14 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
- 15 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;
- 16 (q) services of behavioral health peer support specialists certified under Title 37, chapter 38, provided
- 17 to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and
- 18 (r) any additional medical service or aid allowable under or provided by the federal Social Security
- 19 Act.
- 20 (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as
- 21 described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
- 22 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
- 23 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
- 24 category of assistance.
- 25 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the
- 26 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
- 27 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
- 28 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of

1 medical assistance only who are covered under a group related to a program providing cash assistance, as
2 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
3 include those optional services listed in subsections (4)(a) through (4)(r) that the department in its discretion
4 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
5 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
6 particular service is commonly covered by private health insurance plans. However, a recipient who is
7 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
8 is less than 21 years of age is entitled to full medicaid coverage.

9 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
10 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
11 and coinsurance for persons not otherwise eligible for medicaid.

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

14 (b) The department shall strive to close gaps in services provided to individuals suffering from mental
15 illness and co-occurring disorders by doing the following:

16 (i) simplifying administrative rules, payment methods, and contracting processes for providing
17 services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be
18 cost-neutral for the biennium beginning July 1, 2017.

19 (ii) publishing a report on an annual basis that describes the process that a mental health center or
20 chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment
21 from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

22 (9) The services provided under this part may be only those that are medically necessary and that are
23 the most efficient and cost-effective.

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

27 (b) The department shall, with reasonable promptness, provide access to all medically necessary
28 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access

1 to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.
2 (11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.
3 (12) If available funds are not sufficient to provide medical assistance for all eligible persons, the
4 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
5 services made available under the Montana medicaid program after taking into consideration the funding
6 principles set forth in subsection (2). (Subsection ~~(3)(e)~~ (3)(p) terminates September 30, 2023--sec. 7, Ch. 412,
7 L. 2019.)"

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9 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2021.

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