

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

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

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE ELIGIBILITY STANDARD FOR PREGNANT  
5 WOMEN UNDER THE MEDICAID PROGRAM; AMENDING SECTIONS 53-4-1110 AND 53-6-131, MCA; AND  
6 PROVIDING AN EFFECTIVE DATE."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9  
10 **Section 1.** Section 53-4-1110, MCA, is amended to read:

11 **"53-4-1110. (Temporary) Exemption from resource test.** An otherwise applicable eligibility  
12 resource test provided for in 53-6-113(6) and ~~53-6-131(9)~~ does not apply to plan applicants. (Terminates June  
13 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)

14 **53-4-1110. (Effective on occurrence of contingency) Exemption from resource test.** An  
15 otherwise applicable eligibility resource test provided for in 53-6-113(6) and ~~53-6-131(8)~~  
16 applicants."

17  
18 **Section 2.** Section 53-6-131, MCA, is amended to read:

19 **"53-6-131. (Temporary) Eligibility requirements.** (1) Medical assistance under the Montana  
20 medicaid program may be granted to a U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641 who is  
21 determined by the department of public health and human services to be a Montana resident and, in its  
22 discretion, to be eligible as follows:

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

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

28 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the

1 facility, the person would be receiving assistance under the program in subsection (1)(a).

2 (d) The person is:

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

5 (ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-  
6 444.

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

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

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

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

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

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

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

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

28 (2) The department shall require an applicant to provide proof of the applicant's residency in this

1 state.

2 (3) (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 receiving  
11 benefits through the medicaid program for workers with disabilities.

12 (4) (a) The department may not require a person who is eligible for medicaid under subsection  
13 (1)(e)(ii)(A) to:

14 (i) make only a cash payment to qualify for medicaid under that subsection; or

15 (ii) only incur medical expenses as a means of qualifying for medicaid under that subsection.

16 (b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and  
17 community-based services waiver, the department shall count as an eligible medical expense any medical  
18 service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for  
19 medicaid under subsection (1)(e)(ii)(A).

20 (c) Nothing in this subsection (4) may be construed as preventing a person from making only a  
21 cash payment to qualify for medicaid pursuant to subsection (1)(e)(ii)(A).

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

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

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

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

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

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

16 (9) Notwithstanding any other provision of this chapter, medical assistance must be provided to  
17 infants and pregnant women whose family income does not exceed ~~income standards adopted by the~~  
18 ~~department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not~~  
19 ~~exceed standards that the department determines reasonable for purposes of the program~~ 185% of the federal  
20 poverty level.

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

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

27 (12) Full medical assistance under the Montana medicaid program may be granted to an individual  
28 during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a

1 precancerous condition of the breast or cervix, if the individual:

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

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

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

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

9 and

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

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

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

17 **53-6-131. (Effective on occurrence of contingency) Eligibility requirements.** (1) Medical  
18 assistance under the Montana medicaid program may be granted to a person who is determined by the  
19 department of public health and human services, in its discretion, to be eligible as follows:

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

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

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

27 (d) The person is:

28 (i) under 21 years of age and in foster care under the supervision of the state or was in foster care

1 under the supervision of the state and has been adopted as a child with special needs; or

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

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

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

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

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

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

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

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

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

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

1 (b) The department may not count as a resource an individual retirement account that was  
2 established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-  
3 195 if:

- 4 (i) the person is no longer eligible for coverage under 53-6-195; and
- 5 (ii) the individual retirement account was established during the time the person was receiving  
6 benefits through the medicaid program for workers with disabilities.

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

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

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

16 (4) (a) The department may not require a person who is eligible for medicaid under subsection  
17 (1)(e)(ii)(A) to:

- 18 (i) make only a cash payment to qualify for medicaid under that subsection; or
- 19 (ii) only incur medical expenses as a means of qualifying for medicaid under that subsection.

20 (b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and  
21 community-based services waiver, the department shall count as an eligible medical expense any medical  
22 service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for  
23 medicaid under subsection (1)(e)(ii)(A).

24 (c) Nothing in this subsection (4) may be construed as preventing a person from making only a  
25 cash payment to qualify for medicaid pursuant to subsection (1)(e)(ii)(A).

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

28 (6) In accordance with waivers of federal law that are granted by the secretary of the U.S.

1 department of health and human services, the department of public health and human services may grant  
2 eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid  
3 benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931  
4 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social  
5 Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as  
6 provided in 53-6-101.

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

11 (8) Notwithstanding any other provision of this chapter, medical assistance must be provided to  
12 infants and pregnant women whose family income does not exceed ~~income standards adopted by the~~  
13 ~~department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not~~  
14 ~~exceed standards that the department determines reasonable for purposes of the program~~ 185% of the federal  
15 poverty level.

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

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

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

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

28 (b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the



1 breast or cervix;

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

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

4 and

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

6 (12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to

7 workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and

8 (r)(2) and 42 U.S.C. 1396o."

9

10 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2023.

11 - END -