

HOUSE BILL NO. 590

INTRODUCED BY C. HUNTER

BY REQUEST OF THE GOVERNOR

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6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO HEALTH CARE;
7 REVISING MEDICAID ELIGIBILITY REQUIREMENTS; EXPANDING THE MEDICAID PROGRAM TO COVER
8 NONDISABLED, NONELDERLY, AND NONPREGNANT ADULTS; ESTABLISHING A MEDICAL HOME
9 PROGRAM AND ADVISORY COMMITTEE; CREATING A SPECIAL REVENUE ACCOUNT; PROVIDING
10 RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS AND STATUTORY APPROPRIATIONS;
11 AMENDING SECTIONS 17-7-502, 53-6-131, 53-6-132, AND 53-6-133, MCA; REPEALING SECTIONS 53-2-103
12 AND 53-6-121, MCA; AND PROVIDING EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."
13

14 WHEREAS, a recent survey by the University of Montana Bureau of Business and Economic Research
15 shows that about 20% of Montanans live without medical insurance; and

16 WHEREAS, a University of Montana study showed that Montana's hospitals provided \$150 million in
17 uncompensated care in 2010; and

18 WHEREAS, the Montana Legislature recognizes that access to affordable and quality health care is a
19 critical issue for all Montanans; and

20 WHEREAS, a program to improve access to health care in Montana must encompass not only ways to
21 reduce Montana's uninsured population, but also to ensure an adequate workforce of health care providers,
22 provide improved access to health care for low-income and middle-income families, and identify health care costs
23 for all Montanans.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

26
27 **NEW SECTION. Section 1. Medical home program -- legislative findings.** (1) The legislature finds
28 that medical homes are likely to result in the delivery of more efficient and effective health care services to
29 individuals enrolled in the medicaid program and the healthy Montana kids plan and, as a result, are in the public
30 interest.



1 (2) Notwithstanding any state or federal law that prohibits the collaboration of health plans or providers
 2 regarding payment methods, the legislature further finds that the state's interest in improving these publicly
 3 funded health care programs is sufficient to override concerns about collusion regarding activities involving
 4 medical homes and payments made for services provided by medical homes. The state action immunity doctrine
 5 applies to the department's medical homes program, and federal or state antitrust laws that prohibit collusion do
 6 not apply to activities relating to medical homes for medicaid and the healthy Montana kids plan.

7
 8 **NEW SECTION. Section 2. Medical home program -- purpose.** (1) There is established in the
 9 department of public health and human services a medical home program in order to improve patient access to
 10 health care, improve quality of care, and control costs of care for:

- 11 (a) the medicaid program provided for in Title 53, chapter 6, part 1; and
 12 (b) the healthy Montana kids plan, inclusive of the children's health insurance program, as authorized
 13 in Title 53, chapter 4, parts 10 and 11.

14 (2) Through the medical home program, the department shall:

- 15 (a) define core attributes of medical homes to promote a reasonable level of consistency in the services
 16 that are provided to individuals enrolled in medicaid and the healthy Montana kids plan;
 17 (b) establish a simple and uniform process to identify medical homes that meet the core attributes
 18 defined pursuant to subsection (2)(a);
 19 (c) develop uniform quality measures that build from nationally accepted evidence-based measures and
 20 allow for standard measurement of medical home performance, including but not limited to uniform quality
 21 measures for acute care hospital, ambulatory care, and behavioral health services; and
 22 (d) develop policies that could increase the number of primary care providers in Montana and encourage
 23 the retention of primary care providers already practicing in Montana.

24 (3) In defining core attributes for ensuring that health care services are coordinated, the department shall
 25 focus on determining whether a medical home offers:

- 26 (a) comprehensive primary care, including prevention and disease management services; and
 27 (b) coordination of other ambulatory, behavioral health, and hospital services.

28
 29 **NEW SECTION. Section 3. Medical home program advisory committee.** (1) (a) The department
 30 director shall appoint an advisory committee to advise the department in establishing the medical home program.

1 (b) The committee must consist of seven members who represent a diverse constituency and are
2 knowledgeable about medical home delivery systems and health care quality.

3 (2) Members of the advisory committee are not entitled to compensation but may be reimbursed for travel
4 expenses as provided for in 2-18-501 through 2-18-503.

5 (3) The advisory committee shall consider public input in developing recommendations for the medical
6 home program.

7
8 **NEW SECTION. Section 4. Medicaid eligibility expansion account -- statutory appropriation.** (1)

9 There is an account in the federal special revenue fund for the purposes of expanding the Montana medicaid
10 program to individuals eligible under 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as authorized by Public Law 111-148 and
11 Public Law 111-152.

12 (2) Federal funds received for the increased federal medical assistance percentage for medical
13 assistance for newly eligible mandatory individuals, as provided for in 42 U.S.C. 1396d(y), must be deposited in
14 the account.

15 (3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department to be
16 used for costs related to expanding the medicaid program to individuals who meet the eligibility requirements of
17 subsection (1).

18
19 **Section 5.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
22 need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
24 of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
27 appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
29 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
30 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;

1 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 2 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 3 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
 4 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 5 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; [section 4]; 53-9-113; 53-24-108; 53-24-206; 60-11-115;
 6 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222;
 7 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603;
 8 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 12 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 13 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 14 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 15 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
 16 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
 17 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
 18 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 19 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 20 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 21 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 22 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 23 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 24 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 25 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 26 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 27 June 30, 2017.)"

28

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

30 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may

1 be granted to a person who is determined by the department of public health and human services, in its
2 discretion, to be eligible as follows:

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

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

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

10 (d) The person is under 21 years of age and in foster care under the supervision of the state or was in
11 foster care under the supervision of the state and has been adopted as a child with special needs.

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 (h) The person meets the eligibility requirements of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as enacted by
3 Public Law 111-148, Public Law 111-152, and federal regulations implementing those laws.

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

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

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

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

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

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

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

29 (7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants
30 and pregnant women whose family income does not exceed income standards adopted by the department that

1 comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards
2 that the department determines reasonable for purposes of the program.

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

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

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

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

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

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

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

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

20 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with
21 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
22 U.S.C. 1396o.

23 (12) The department may establish medicaid eligibility consistent with the modified adjusted gross
24 income criteria allowed by federal regulations."

25

26 **Section 7.** Section 53-6-132, MCA, is amended to read:

27 **"53-6-132. Application for assistance -- exception.** (1) ~~Subject to subsection (2), application for~~
28 ~~assistance under this part may be made in any local office of public assistance.~~ The department shall adopt
29 medicaid eligibility procedures and criteria that are consistent with federal requirements.

30 (2) ~~The~~ An application for medical assistance under this part must be presented in the manner and on

1 the a form prescribed by the department.

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

3 ~~(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than~~
 4 ~~the local office of public assistance to determine eligibility for medicaid managed care services.~~

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

8

9 **Section 8.** Section 53-6-133, MCA, is amended to read:

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

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

20

21 NEW SECTION. Section 9. Repealer. The following sections of the Montana Code Annotated are
 22 repealed:

23 53-2-103. Records and reports.

24 53-6-121. Local administration of medical assistance.

25

26 NEW SECTION. Section 10. Appropriation. (1) The following amounts are appropriated to the
 27 department of public health and human services for the biennium beginning July 1, 2013, for the purposes of
 28 implementing medicaid provisions of Public Law 111-148 and Public Law 111-152:

	General Fund	Federal Special Revenue Fund
29 Fiscal Year 2014	\$1,892,342	\$7,650,571

30



1 Fiscal Year 2015 \$3,107,521 \$12,580,139

2 (2) There is appropriated from the general fund to the office of commissioner of higher education
 3 \$200,000 for the biennium beginning July 1, 2013, to expand the family practice residency program.

4 (3) There is appropriated from the general fund to the office of the commissioner of higher education
 5 \$515,265 for the biennium beginning July 1, 2013, to expand the WWAMI medical education program.

6 (4) There are appropriated the following amounts to the department of public health and human services
 7 to increase provider rates by 2% in each year of the biennium beginning July 1, 2013:

	Fiscal Year 2014	Fiscal Year 2015
8 General Fund	\$5,591,989	\$11,309,190
9 State Special Revenue	\$272,690	\$551,273
10 Federal Special Revenue	\$9,902,526	\$19,984,865

11
 12
 13 **NEW SECTION. Section 11. Codification instruction.** (1) [Sections 1 through 3] are intended to be
 14 codified as an integral part of Title 53, chapter 2, and the provisions of Title 53, chapter 2, apply to [sections 1
 15 through 3].

16 (2) [Section 4] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the
 17 provisions of Title 53, chapter 6, part 1, apply to [section 4].

18
 19 **COORDINATION SECTION. Section 12. Coordination instruction.** (1) If both House Bill No. 2 and
 20 [this act] are passed and approved and if House Bill No. 2 appropriates \$200,000 to the office of commissioner
 21 of higher education to expand the family practice residency program, then the appropriation in [section 10(2) of
 22 this act] is void.

23 (2) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
 24 less than \$200,000 to the office of commissioner of higher education to expand the family practice residency
 25 program, then the appropriation in House Bill No. 2 for the expansion of the family practice residency program
 26 is void.

27 (3) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
 28 more than \$200,000 to the office of commissioner of higher education to expand the family practice residency
 29 program, then the appropriation in [section 10(2) of this act] is void.

30

1 COORDINATION SECTION. **Section 13. Coordination instruction.** (1) If both House Bill No. 2 and
2 [this act] are passed and approved and if House Bill No. 2 appropriates \$515,265 to the office of commissioner
3 of higher education to expand the number of eligible participants in the WWAMI program, then the appropriation
4 in [section 10(3) of this act] is void.

5 (2) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
6 less than \$515,265 to the office of commissioner of higher education to expand the number of eligible participants
7 in the WWAMI program, then the appropriation in House Bill No. 2 for the WWAMI expansion is void.

8 (3) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
9 more than \$515,265 to the office of commissioner of higher education to expand the number of eligible
10 participants in the WWAMI program, then the appropriation in [section 10(3) of this act] is void.

11
12 COORDINATION SECTION. **Section 14. Coordination instruction.** (1) If both House Bill No. 2 and
13 [this act] are passed and approved and if House Bill No. 2 appropriates general fund, state special revenue, and
14 federal special revenue in the amount specified in [section 10(4) of this act] to the department of public health
15 and human services to increase provider rates by 2% in each year of the biennium, then the appropriation in
16 [section 10(4)] is void.

17 (2) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
18 general fund, state special revenue, and federal special revenue to the department of public health and human
19 services in an amount that increases provider rates by less than 2% in each year of the biennium, then the
20 appropriation in House Bill No. 2 for increased provider rates is void.

21 (3) If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 appropriates
22 to the department of public health and human services an amount of general fund, state special revenue, and
23 federal special revenue fund that is higher than the appropriation in [section 10(4) of this act] for provider rate
24 increases, then the appropriation in [section 10(4) of this act] is void.

25
26 COORDINATION SECTION. **Section 15. Coordination instruction.** If both Senate Bill No. 84 and [this
27 act] are passed and approved and if Senate Bill No. 84 contains a section amending 53-6-113, then the section
28 in Senate Bill No. 84 amending 53-6-113 is void.

29
30 NEW SECTION. **Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act] is

1 effective October 1, 2013.

2 (2) [Sections 4, 5, and 10] and this section are effective July 1, 2013.

3

4 NEW SECTION. **Section 17. Contingent termination.** (1) Section 53-6-131(1)(h) terminates on the
5 date that the federal medical assistance percentage for medical services provided to individuals eligible for
6 medicaid pursuant to 53-6-131(1)(h) is set below 90%.

7 (2) The office of budget and program planning shall:

8 (a) certify to the governor the occurrence of the contingency provided for in subsection (1); and

9 (b) transmit a copy of the certification to the code commissioner.

10 - END -