



AN ACT ESTABLISHING PROCEDURES FOR PREVENTING FRAUD IN PUBLIC ASSISTANCE PROGRAMS; ESTABLISHING VERIFICATION REQUIREMENTS FOR INFORMATION SUBMITTED BY APPLICANTS FOR AND RECIPIENTS OF PUBLIC ASSISTANCE; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONTRACT FOR A VERIFICATION SYSTEM; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 53-2-101 AND 53-2-201, MCA.

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

Section 1. Section 53-2-101, MCA, is amended to read:

"53-2-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(2) "Identity information" means the full name, aliases, date of birth, address, social security number, and other related information provided by an applicant for or recipient of public assistance.

~~(2)~~(3) "Needy person" is ~~one~~ an individual who is eligible for public assistance under the laws of this state.

~~(3)~~(4) "Protective services" means services to children and adults to be provided by the department as permitted by Titles 41 and 53.

~~(4)~~(5) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

~~(5)~~(6) "Section 1115 waiver" means an experimental, pilot, research, or demonstration project, subject to approval by the secretary of the U.S. department of health and human services, authorized by section 1115 of Title XI of the Social Security Act, 42 U.S.C. 1315, for which certain requirements of the Social Security Act are waived.

~~(6)~~(7) "Section 1915 waiver" means a waiver of certain medicaid requirements, subject to approval by

the secretary of the U.S. department of health and human services under section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, for the purposes of managing health care through restrictions on access to providers or for establishing programs of home and community-based services."

Section 2. Establishment of enhanced eligibility verification system. (1) The department shall establish a computerized income, asset, and identity eligibility verification system in order to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse in each public assistance program that the department administers.

(2) The department shall enter into a competitively bid contract with a third-party vendor for the purposes of developing a system by which to verify, as provided in [sections 3 and 4], the income, asset, and identity information of applicants to prevent fraud, misrepresentation, and inadequate documentation when determining an individual's eligibility for public assistance:

- (a) prior to the distribution of benefits;
- (b) periodically between eligibility redeterminations; and
- (c) during eligibility redeterminations and reviews.

(3) The department may contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(4) When the department enters into a contract with a third-party vendor for the purposes of carrying out [sections 2 through 8], the vendor, in partnership with the department, must be required by contract to establish annualized savings realized from implementation of the verification system. Savings must exceed the total yearly cost to the state of implementing the verification system.

(5) When the department enters into a contract with a third-party vendor, the payment structure must be based on a per-applicant rate and may include a performance bonus for achieving above a predetermined rate of success in identifying waste, fraud, and abuse.

(6) To avoid any conflict of interest, a primary third-party vendor with whom the department enters into a contract may not bid on or be awarded a state contract to run enrollment services.

(7) The department may continue to conduct any eligibility processes that were in practice before entry into a contract pursuant to this section.

Section 3. Enhanced eligibility verification process. (1) The department shall process an application for public assistance within 10 days or the minimum period required by federal law. Prior to awarding assistance and on a quarterly basis after assistance is awarded, the department shall verify the identity information of each applicant for and recipient of public assistance against:

- (a) earned and unearned income information maintained by the internal revenue service;
- (b) employer weekly, monthly, and quarterly reports of income and unemployment insurance payment information maintained by the Montana department of labor and industry and the Montana department of revenue;
- (c) employment information maintained by the Montana department of labor and industry;
- (d) wage reporting and similar information maintained by states contiguous to this state;
- (e) the following information maintained by the U.S. social security administration:
 - (i) earned income information;
 - (ii) death register information;
 - (iii) prisoner information;
 - (iv) beneficiary records and earnings information;
 - (v) earnings and pension information; and
 - (vi) supplemental security income information;
- (f) the following information maintained by the U.S. department of health and human services:
 - (i) new hires, as maintained in the department's national directory of new hires;
 - (ii) income and employment information maintained for the purposes of child support enforcement; and
 - (iii) veterans' benefits information, in coordination with the Montana department of public health and human services and the Montana department of military affairs, in the federal public assistance reporting information system database;
- (g) immigration status information maintained by the U.S. citizenship and immigration services;
- (h) public housing and section 8 housing assistance payment information maintained by the U.S. department of housing and urban development;
 - (i) national fleeing felon information maintained by the federal bureau of investigation;
 - (j) the following information maintained by the department:
 - (i) child care services information;
 - (ii) utility payments made under the low-income home energy assistance program;

(iii) emergency utility payment information; and
 (iv) income and employment information for the purposes of child support enforcement pursuant to Title 40, chapter 5;

(k) a database of all persons who currently hold a license, permit, or certificate from any state agency the cost of which exceeds \$500;

(l) earnings and pension information maintained by a retirement system provided for in Title 19;

(m) any existing real-time database of persons currently receiving benefits in other states; and

(n) a database that is substantially similar to or a successor of a database listed in this section.

(2) Prior to awarding public assistance and on a quarterly basis after assistance is awarded, the department shall match identity information of each applicant for and recipient of public assistance against, at minimum, the following public records:

(a) a national public records data source of physical asset ownership, including but not limited to real property, automobiles, watercraft, aircraft, luxury vehicles, and any other vehicle owned by the individual;

(b) a nationwide public records data source of incarcerated individuals;

(c) a nationwide best-address and driver's license data source to verify that the individual is a resident of this state;

(d) a comprehensive public records database that identifies potential identity fraud or identity theft and that can closely associate name, social security number, date of birth, phone, and address information;

(e) national and local financial institutions, in order to locate undisclosed depository accounts or verify account balances of disclosed accounts;

(f) outstanding default or arrest warrant information maintained in criminal justice information systems; and

(g) a database that is substantially similar to or a successor of a database listed in this section.

Section 4. Enhanced identity authentication process. Before receiving public assistance, an applicant for assistance shall complete a computerized identity authentication process to confirm that the applicant owns the identity presented in the application. The department shall review the applicant's identity ownership by:

(1) providing a knowledge-based quiz consisting of financial or personal questions. The quiz must attempt to accommodate nonbanked or underbanked applicants who do not have an established credit history.

(2) providing for submission of the quiz through all channels, including online, in person, and by phone.

Section 5. Discrepancies and case review. (1) If a discrepancy is found between the identity information provided by an applicant for or recipient of public assistance and one or more of the databases or information tools listed under [section 3 or 4], the department shall review the case as provided in this section.

(2) If the department determines that no discrepancy exists or a change in circumstances has not affected the individual's eligibility for public assistance, the department shall take no further action.

(3) If the department determines that the discrepancy or change in circumstances may affect a recipient's eligibility, the department shall promptly redetermine eligibility.

(4) (a) If the department determines that a discrepancy or change in circumstances may affect the eligibility of an applicant or recipient, the individual must be given an opportunity to explain the discrepancy or change in circumstances. The department shall provide written notice to the individual describing in sufficient detail the circumstances of the discrepancy or change, the manner in which the individual may respond, and the consequences of failing to take action.

(b) The applicant or recipient has 10 business days, or the minimum required by state or federal law, to respond in an attempt to resolve the discrepancy or change in circumstances. The response must be provided in writing. After receiving the explanation, the department may request additional documentation if it determines that there is risk of fraud, misrepresentation, or inadequate documentation.

(c) Self-declarations by an applicant or recipient may not be accepted as verification of categorical and financial eligibility during eligibility evaluations, reviews, and redeterminations under this subsection (4).

(d) If the applicant or recipient does not respond to the notice, the department shall deny or discontinue assistance for failure to cooperate and shall provide notice of intent to deny or discontinue assistance. Eligibility for assistance may not be established or reestablished until the discrepancy or change has been resolved.

(5) (a) If an applicant or recipient responds to the notice and disagrees with the findings of the match between the identity information and one or more databases or information tools listed under [section 3 or 4], the department shall reinvestigate the matter.

(b) If the department finds that an error has occurred, the department shall take immediate action to correct it and may not take further action against the individual.

(c) If the department determines that there is no error, the department shall determine the effect on the

individual's case and take appropriate action. The department shall provide written notice of its action to the applicant or recipient.

(6) (a) If the applicant or recipient agrees with the findings of the match between the identity information and one or more databases or information tools listed in [section 3 or 4], the department shall determine the effect on the individual's case and take appropriate action. The department shall provide written notice of its action to the applicant or recipient.

(b) The department may not discontinue assistance upon finding a discrepancy or change in circumstances between an individual's identity information and one or more databases or information tools listed under [section 3 or 4] until the department has notified the individual and provided an opportunity to respond as required under this section.

Section 6. Referrals for fraud, misrepresentation, or inadequate documentation. (1) After reviewing changes or discrepancies that may affect eligibility for public assistance, the department shall refer:

(a) suspected cases of fraud to the department of justice as provided in Title 53, chapter 2, part 5, or to any other appropriate entity for investigation and possible criminal prosecution, recovery of improper payments, and collection of civil penalties;

(b) suspected cases of identity fraud to the department of justice or to any other appropriate entity for investigation and possible criminal prosecution; and

(c) determinations of ineligibility and suspected cases of fraud, misrepresentation, or inadequate documentation to other state agencies as appropriate for review of eligibility discrepancies in other public programs.

(2) If an applicant for or recipient of public assistance is convicted of fraud related to public assistance benefits, the department shall review all legal options to remove the applicant or recipient from other public programs and garnish wages or state income tax refunds until the state recovers an amount equal to the benefits fraudulently received.

Section 7. Transparency in medicaid. The department shall electronically release to the public the following data on providers participating in the medicaid program provided for in Title 53, chapter 6, part 1:

(1) the type of service provided, based on the current medical coding system in use;

- (2) whether the service was provided in an office setting or a facility;
- (3) the number of services provided;
- (4) the average submitted charges and average allowed amount;
- (5) the average medicaid payment; and
- (6) a count of unique beneficiaries treated.

Section 8. Reporting requirements. The department shall provide a written report to the governor, the legislature, and the legislative auditor detailing the effectiveness and general findings of the eligibility verification system, including but not limited to the number of cases reviewed, the number of case closures, the number of referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the savings that have resulted from the system, and the outcomes of cases referred to the department of justice, a county attorney's office, or another state agency. The report must be provided:

- (1) 6 months following implementation of [sections 2 through 8]; and
- (2) every 3 months after the initial report is made.

Section 9. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer and supervise public assistance, including the provision of food stamps, food commodities, financial assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;

(b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;

(c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(d) organize and supervise the local offices of public assistance in an efficient and economical manner;

(e) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions,

when requested, by performing services in conformity with public assistance purposes;

(f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

(g) make rules governing payment for services and supplies provided to recipients of public assistance; and

(h) adopt rules regarding assignment of monetary and medical support upon application for financial assistance, as defined in 53-2-902, and related medical assistance.

(2) The department may:

(a) purchase, exchange, condemn, as provided in Title 70, chapter 30, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance; and

(d) make rules to carry out the provisions of [sections 2 through 8]."

Section 10. Codification instruction. [Sections 2 through 8] are intended to be codified as an integral part of Title 53, chapter 2, part 1, and the provisions of Title 53, chapter 2, part 1, apply to [sections 2 through 8].

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

I hereby certify that the within bill,
SB 0148, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 148
INTRODUCED BY C. SMITH

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