

HOUSE BILL NO. 599

INTRODUCED BY J. WINDY BOY, B. BESSETTE, K. DUDIK, M. DUNWELL, J. KARJALA, M. RYAN,
J. SMALL, S. WEBBER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR THE PRACTICE OF CERTAIN HEALTH CARE SERVICES UNDER THE COMMUNITY HEALTH AIDE PROGRAM; ALLOWING FOR USE OF FEDERAL CERTIFICATION STANDARDS FOR HEALTH AIDES; REQUIRING MEDICAID COVERAGE OF SERVICES PROVIDED BY PEOPLE MEETING FEDERAL CERTIFICATION STANDARDS; ~~AND~~ AMENDING SECTION 53-6-101, MCA; AND PROVIDING A TERMINATION DATE."

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

NEW SECTION. SECTION 1. RECOGNITION OF FEDERAL AUTHORITY. THE STATE OF MONTANA RECOGNIZES THAT THE INDIAN HEALTH CARE IMPROVEMENT ACT, 25 U.S.C. 1601, ET SEQ.:

(1) PROVIDES THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES, ACTING THROUGH THE INDIAN HEALTH SERVICE, WITH THE AUTHORITY TO:

(A) ESTABLISH A COMMUNITY HEALTH AIDE PROGRAM IN THE STATE OF MONTANA; AND

(B) ESTABLISH AND MAINTAIN A COMMUNITY HEALTH AIDE CERTIFICATION BOARD TO ADOPT CERTIFICATION STANDARDS FOR INDIVIDUALS TO ACT AS SPECIFIC AIDES WITHIN THE PROGRAM, INCLUDING COMMUNITY HEALTH AIDES, BEHAVIORAL HEALTH AIDES, AND DENTAL HEALTH AIDE THERAPISTS; AND

(2) REQUIRES DENTAL HEALTH AIDE THERAPIST SERVICES TO BE EXCLUDED FROM THE COMMUNITY HEALTH AIDE PROGRAM IN MONTANA UNLESS THE SERVICES ARE AUTHORIZED UNDER STATE LAW AND PROVIDED IN ACCORDANCE WITH STATE LAW.

NEW SECTION. Section 2. Community health aide program -- exception to licensing requirements. (1) An individual may, without obtaining a license under this title, provide health care services within the scope of the individual's ~~authority for people who are enlisted in, directly connected with, or under immediate control of~~ CERTIFICATION IN A PRACTICE SETTING LOCATED WITHIN THE EXTERIOR BOUNDARIES OF A TRIBAL RESERVATION AND OPERATED BY the Indian health service; OR a tribal health program authorized pursuant to Public Law 93-638, or an urban Indian health center if the individual is certified by:

1 (a) a federal community health aide program certification board established pursuant to 25 U.S.C. 1616l;

2 or

3 (b) a federally recognized Indian tribe that has adopted certification standards that meet or exceed the
4 requirements of a federal community health aide program certification board.

5 (2) Services provided under this section must be provided in accordance with the standards adopted by
6 the certifying body, including standards related to scope of practice, training, supervision, and continuing
7 education.

8 (3) After meeting the competencies required for the appropriate type and level of certification, an
9 individual may practice under this section in the following areas:

10 (a) dental health, as a primary or expanded function dental health aide, dental health aide hygienist, or
11 dental health aide therapist to assist with dental education and primary; OR preventive, or restorative dental care
12 as appropriate to the individual's certification, AND PROVIDED THAT PERFORMING DENTAL EXTRACTIONS OR INVASIVE
13 PROCEDURES TO TEETH AND GUMS IS PROHIBITED;

14 (b) behavioral health, as a behavioral health aide or behavioral health aide practitioner to assist with case
15 management, patient and community education, and patient evaluation, treatment planning, and treatment
16 activities as appropriate to the individual's certification. A behavioral health practitioner may, only under the
17 general supervision of a licensed behavioral health professional, conduct routine screening, assessment,
18 evaluation, and counseling of patients.

19 (c) community health, as a community health aide or community health aide practitioner to assist with
20 acute, preventive, and primary care services as appropriate to the individual's certification.

21 (4) An individual providing services under this section may provide the services only while discharging
22 official duties on behalf of the United States government under the Indian health service, a tribal health program
23 authorized pursuant to Public Law 93-638, or an urban Indian health center.

24
25 **Section 3.** Section 53-6-101, MCA, is amended to read:

26 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid
27 program established for the purpose of providing necessary medical services to eligible persons who have need
28 for medical assistance. The Montana medicaid program is a joint federal-state program administered under this
29 chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall
30 administer the Montana medicaid program.

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

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

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

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

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

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

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

(e) physicians' services;

(f) nurse specialist services;

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

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

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

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

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

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

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

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

1 (o) services provided by a person certified in accordance with [section 4 2] to provide services in
2 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.

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

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

7 (b) home health care services;

8 (c) private-duty nursing services;

9 (d) dental services;

10 (e) physical therapy services;

11 (f) mental health center services administered and funded under a state mental health program
12 authorized under Title 53, chapter 21, part 10;

13 (g) clinical social worker services;

14 (h) prescribed drugs, dentures, and prosthetic devices;

15 (i) prescribed eyeglasses;

16 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

17 (k) inpatient psychiatric hospital services for persons under 21 years of age;

18 (l) services of professional counselors licensed under Title 37, chapter 23;

19 (m) hospice care, as defined in 42 U.S.C. 1396d(o);

20 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case
21 management services for the mentally ill;

22 (o) services of psychologists licensed under Title 37, chapter 17;

23 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h),
24 in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

25 (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

26 (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as
27 described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
28 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
29 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
30 category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

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

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

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

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

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

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

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

(b) The department shall, with reasonable promptness, provide access to all medically necessary

1 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access
2 to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

3 (11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

4 (12) If available funds are not sufficient to provide medical assistance for all eligible persons, the
5 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
6 services made available under the Montana medicaid program after taking into consideration the funding
7 principles set forth in subsection (2)."

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9 NEW SECTION. Section 4. Notification to tribal governments. The secretary of state shall send a
10 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
11 Chippewa tribe.

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13 NEW SECTION. Section 5. Direction to department of public health and human services. The
14 department of public health and human services is directed to apply to the centers for medicare and medicaid
15 services for a state plan amendment or a research and demonstration project waiver as may be needed to
16 authorize medicaid coverage of services provided by individuals certified in accordance with [section 4 2].

17
18 NEW SECTION. Section 6. Codification instruction. ~~[Section 4]~~ is [SECTIONS 1 AND 2] ARE intended
19 to be codified as an integral part of Title 37, chapter 2, part 3, and the provisions of Title 37, chapter 2, part 3,
20 apply to ~~[section 4]~~ [SECTIONS 1 AND 2].

21
22 NEW SECTION. SECTION 7. TERMINATION. ~~[THIS ACT]~~ TERMINATES SEPTEMBER 30, 2024 2023.

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