



AN ACT REVISING LAWS RELATED TO ASSISTANCE FOR LOW-INCOME FAMILIES WITH DEPENDENT CHILDREN; REMOVING OUTDATED TERMINOLOGY; PROVIDING DEFINITIONS; CLARIFYING APPLICATION AND ELIGIBILITY PROCESSES; AMENDING SECTIONS 39-7-303, 39-71-118, 40-4-215, 52-2-710, 53-2-201, 53-2-211, 53-2-215, 53-2-606, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-3-115, 53-4-201, 53-4-202, 53-4-212, 53-4-221, 53-4-231, 53-4-232, 53-4-233, 53-4-241, 53-4-244, 53-4-602, 53-4-611, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, AND 53-6-101, MCA; REPEALING SECTIONS 53-4-216, 53-4-250, 53-4-255, 53-4-256, 53-4-257, 53-4-601, 53-4-606, 53-4-609, 53-4-612, AND 53-4-721, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 39-7-303, MCA, is amended to read:

"39-7-303. Definitions. As used in this part, the following definitions apply:

- (1) "Adult" means a person who is 18 years of age or older.
- (2) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701.
- (3) "Displaced homemaker" means an adult who:
 - (a) has worked as an adult primarily without remuneration to care for the home and family and for that reason has diminished marketable skills and who has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or
 - (b) (i) is a parent whose youngest dependent child will become ineligible to receive ~~financial~~ cash assistance, as defined in 53-4-201, pursuant to Title 53, chapter 4, part 2, within 2 years of the parent's application for displaced homemaker assistance;
 - (ii) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate; or
 - (iii) meets the qualifications described in subsection (3)(a) or (3)(b) and is a criminal offender."

Section 2. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined -- election of coverage. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial cash assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial cash assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) subject to subsection (11), a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and

providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability

company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as

defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

- (i) nonresident employees are hired in Montana;
- (ii) nonresident employees' wages are paid in Montana;
- (iii) nonresident employees are supervised in Montana; and
- (iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

(b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency medical technician, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed

sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency medical technician who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers' compensation coverage for its volunteer emergency medical technicians under the provisions of this section shall annually notify its volunteer emergency medical technicians that coverage is not provided.

(f) (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

(g) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

(11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context."

Section 3. Section 40-4-215, MCA, is amended to read:

"40-4-215. Investigations and reports. (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of ~~financial~~ cash assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, and all reasonable options for payment of the investigation, if conducted by a person not

employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid by the state as provided in 3-5-901.

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

- (a) parenting education;
- (b) mediation pursuant to 40-4-301;
- (c) factfinding by the investigator; and
- (d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 4. Section 52-2-710, MCA, is amended to read:

"52-2-710. At-home infant care program -- definition. (1) There is an at-home infant care program

for low-income families in which a parent provides full-time child care for the family's infant under 2 years of age that will be funded if a specific appropriation is added to the general appropriations act or by budget amendment if funds become available from federal or private sources. Subject to subsection (2), the family may receive a payment in lieu of child-care assistance if the family meets the following eligibility requirements:

- (a) The family is not receiving ~~financial~~ cash assistance under Title 53, chapter 4, parts 2 and 6.
 - (b) The family has not previously received a total of 24 months of at-home infant care assistance under this section.
 - (c) The family is at or below 150% of the federal poverty level.
 - (d) The family has fulfilled the following work requirements for 1 out of the 3 months prior to entering the program:
 - (i) 120 hours a month for two-parent families, which may be the contribution of one or both parents;
 - (ii) 60 hours a month for single-parent families;
 - (iii) 40 hours a month for single-parent families who are attending postsecondary education or training.
 - (e) A parent must be 18 years of age or older or, if under 18 years of age, have attained an equivalency of completion of secondary education, as provided in 20-7-131, or a high school diploma.
 - (f) A parent must meet any additional requirements as provided in administrative rules.
- (2) A parent who is under 18 years of age and attending high school or a program for equivalency of completion of secondary education, as provided in 20-7-131, may receive benefits for months outside of the regular school year.
- (3) For the purposes of this section, "parent" means a birth parent, a stepparent, a foster parent, or a guardian who is acting in loco parentis.
- (4) The maximum rate of assistance allowed is equal to the amount of child-care assistance for infant family care for the appropriate district, as adopted by the department by rule. The family may not receive subsidies for child care for other children in the family.
- (5) A participating family shall report income and other family changes as specified by rule. State agencies shall treat income received under this program as earned income.
- (6) Family members may participate in education and work activities as long as one or both parents provide care full time for the infant."

Section 5. 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~~ cash 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~~ cash 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~~ and comply with requirements for receiving federal aid and assistance; and

(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."

Section 6. Section 53-2-211, MCA, is amended to read:

"53-2-211. Department to share eligibility data. (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, ~~financial~~ cash assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department ~~must be used by the department of labor and industry~~ must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program ~~of the state and for no other purpose~~ of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department ~~must be used by the department of labor and industry~~ must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs ~~of the state and for no other purpose~~ of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-2618(9)(c).

(b) The information ~~must~~ must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, ~~financial~~ cash assistance and nonfinancial assistance, as defined in 53-2-902, food stamps,

low-income energy assistance, weatherization, or other public assistance."

Section 7. Section 53-2-215, MCA, is amended to read:

"53-2-215. Social Security Act section 1115 waiver. (1) The department may pursue approval from the U.S. department of health and human services for implementation in Montana of a health insurance flexibility and accountability demonstration initiative and other demonstration projects through section 1115 waivers.

(2) The department may implement a demonstration project upon approval of a section 1115 waiver by the U.S. department of health and human services. The department may:

- (a) coordinate a demonstration project with a program approved through a section 1915 waiver; or
- (b) terminate and subsume in a new section 1115 waiver an existing managed care or access program approved through a section 1915(b) waiver, an optional state plan medicaid service authorized under 53-6-101, an optional state plan eligibility group authorized under 53-6-131, or an existing program approved by a section 1115 waiver, ~~inclusive of the demonstration program authorized by 53-4-202 and Title 53, chapter 4, part 6;~~ that is administered by the department.

~~(3) The department may amend the existing section 1115 demonstration project authorized in 53-4-601 and 53-6-101 to expand the demonstration project to implement the purposes of this section:~~

~~(4)(3)~~ The department may initiate and administer section 1115 waivers to more efficiently apply available state general fund money, other available state and local public and private funding, and federal money to the development and maintenance of medicaid-funded programs of health services and of other public assistance services and to structure those programs or services for more efficient and effective delivery to specific populations.

~~(5)(4)~~ (a) In establishing programs or services in a demonstration project approved through a section 1115 waiver, the department shall administer the expenditures under each demonstration project within the state spending authority that is available for that demonstration project. The department may limit enrollments in each program within a demonstration project, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through each program when the department determines that expenditures can be reasonably expected to exceed the available state spending authority.

(b) The department shall develop a contingency plan if there is a spending cap as a condition of the waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs,

services, or eligibility groups.

~~(6)~~(5) The department may coordinate the state children's health insurance program authorized under Title 53, chapter 4, part 10, with a section 1115 waiver for the purpose of increasing the state funding match available under the waiver and expanding the number of participants in the state children's health insurance program.

~~(7)~~(6) The department, subject to the terms and conditions of the section 1115 waiver:

- (a) shall establish the eligibility groups based upon the funding principles stated in 53-6-101(2);
- (b) may provide medicaid coverage for one or more optional medicaid eligibility groups;
- (c) may provide medicaid coverage for one or more specific populations of persons who are not within the federally authorized medicaid eligibility groups but who are within the requirements of subsection ~~(8)~~ (7);
- (d) may establish the service coverage, eligibility requirements, financial participation requirements, and other features for the administration and delivery of services to each section 1115 waiver eligibility group;
- (e) shall set limits on the number of participants for each section 1115 waiver eligibility group;
- (f) shall set limits on the total expenditures under each demonstration project; and
- (g) shall set the limits on the total expenditures on the services to be provided to each section 1115 waiver eligibility group.

~~(8)~~(7) The categories of persons that the department may consider for establishment as a section 1115 waiver eligibility group include but are not limited to:

- (a) low-income parents of children who are eligible to participate in medicaid under 53-6-131 or in the state children's health insurance program authorized under Title 53, chapter 4, part 10;
- (b) children who because of limits on enrollment may not be covered through the state children's health insurance program authorized under Title 53, chapter 4, part 10;
- (c) children who are eligible to participate in the state children's health insurance program authorized under Title 53, chapter 4, part 10; and
- (d) other specific groups of persons who are participants in programs or services funded solely or primarily through state general funds or who the department determines are in need of specific types of health care and related services, such as prescription drugs, reproductive health care, and mental health services, and are without adequate financial means to procure health insurance coverage of those needs.

~~(9)~~(8) Children participating in a section 1115 waiver eligibility group or children who would be eligible

to participate in the state children's health insurance program are subject to the eligibility criteria applicable under 53-4-1004, except as provided in subsection ~~(40)~~ (9) of this section, for participation in the state children's health insurance program and must receive benefits as provided through the state children's health insurance program under 53-4-1005.

~~(40)~~(9) (a) Except as provided in this subsection ~~(40)~~ (9), the eligibility for the section 1115 waiver eligibility groups may not exceed 150% of the federal poverty level.

(b) The department may establish eligibility at greater than 150% but no more than 200% of the federal poverty level for any of the following groups established for purposes of a section 1115 waiver:

- (i) participants in the state children's health insurance program;
- (ii) participants in a group that may be covered under the state children's health insurance program;
- (iii) participants in a family planning program;
- (iv) participants in a group composed of persons previously served through a program funded with state general fund money and other nonmedicaid money; or

(v) participants in a group composed of persons with a significant need for particular services that are not readily available to that population through insurance products or because of personal financial limitations.

(c) In establishing the eligibility criteria based upon federal poverty levels, the department shall select levels to ensure that the resulting expenditures will remain within the available funding and will conform with the terms and conditions of approval by the U.S. department of health and human services.

(d) The department may adopt additional programmatic and financial eligibility criteria for a section 1115 waiver eligibility group in order to appropriately define the subject population, to limit use for fiscal and programmatic purposes, to prevent improper use, and to conform the administration of the program with the terms and conditions of the section 1115 waiver.

(e) Eligibility criteria applicable to a section 1115 waiver eligibility group need not conform to the criteria applicable to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within the demonstration project.

~~(44)~~(10) (a) For each section 1115 waiver eligibility group, the department shall establish the program benefit or benefits to be available to the participants in the group.

- (b) Program benefits may be in the form of:
 - (i) assistance in the payment of health insurance premiums for health care coverage through an

employer or other existing group coverage available to the program enrollee;

(ii) assistance in the payment of health insurance premiums for health care coverage that meets a set of defined standards and limitations adopted by the department in consultation with the commissioner of insurance and obtained from participating private insurers or through self-insured pools;

(iii) premium purchase for insurance coverage on behalf of children who are 18 years of age or younger for the defined set of health care and related services adopted by the department for the state children's health insurance program authorized in Title 53, chapter 4, part 10; or

(iv) coverage of a defined set of health care and related services administered directly by the department on a fee-for-service basis.

(c) The department may limit the types of program benefits available to enrollees in a program. For programs in which the department provides for more than one type of program benefit, the department may require that enrollees, either as a whole or on an individual basis based on certain circumstances, use certain types of program benefits in lieu of using other types of program benefits.

(d) The department shall, as necessary to maintain expenditures for a program within the available funding for that program, set monetary limitations on the total benefit amounts available on a periodic basis for an enrollee through that program, whether that benefit is in the form of premium assistance, premium purchase, or a set of covered services.

~~(12)~~(11) The benefits for a section 1115 waiver eligibility group may be in the form of a defined set of covered services consisting of one or more of the mandatory and optional medicaid state plan services specified in 53-6-101 or other health-care related services. The department may select the types of services that constitute a defined set of covered services for a section 1115 waiver eligibility group. The department may provide coverage of a service not specified in 53-6-101 if the department determines the service to be appropriate for the particular section 1115 waiver eligibility group. The department may define the nature, components, scope, amount, and duration of each covered service to be made available to a section 1115 waiver eligibility group. The nature, components, scope, amount, and duration of a covered service made available to a section 1115 waiver eligibility group need not conform to those aspects of that service as defined by the department for delivery as a covered service to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within a section 1115 waiver.

~~(13)~~(12) The department may adopt financial participation requirements for enrollees in a section 1115

eligibility group to foster appropriate use among enrollees and to maintain the fiscal accountability of the program. The department may adopt financial participation requirements, including but not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The requirements may vary among the section 1115 waiver eligibility groups. In adopting financial participation requirements for enrollees selecting coverage as provided in subsection ~~(11)(b)(iv)~~ (10)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically needy persons for a service pursuant to the state medicaid plan.

~~(14)~~(13) (a) The department shall adopt rules as necessary for the implementation of a section 1115 waiver. Rules may include but are not limited to:

- (i) designation of programs and activities for implementation of a section 1115 waiver;
- (ii) features and benefit coverage of the programs;
- (iii) the nature, components, scope, amount, and duration of each program service;
- (iv) appropriate insurance products and coverage as benefits;
- (v) required enrollee eligibility information;
- (vi) enrollee eligibility categories, criteria, requirements, and related measures;
- (vii) limits upon enrollment;
- (viii) requirements and limitations for service costs and expenditures;
- (ix) measures to ensure the appropriateness and quality of services to be delivered;
- (x) provider requirements and reimbursement;
- (xi) financial participation requirements for enrollees;
- (xii) use measures; and
- (xiii) other appropriate provisions necessary for administration of a demonstration project and for implementation of the conditions placed upon approval of a section 1115 waiver by the U.S. department of health and human services.

(b) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior authorization for a child to access medicaid services if the child would be eligible for or able to access the services without prior authorization if the child was not in foster care.

~~(15)~~(14) The department shall administer the programs and activities that are subject to a section 1115 waiver in accordance with the terms and conditions of approval by the U.S. department of health and human

services. The department may modify aspects of established programs and activities administered by the department as may be necessary to implement a section 1115 waiver as provided in this section.

~~(16)~~(15) The department may seek an initial duration and durational extensions for a section 1115 waiver as the department determines appropriate for demonstration and fiscal considerations.

~~(17)~~(16) The department shall provide a report to the legislature, as provided in 5-11-210, on the conditions of approval and the status of implementation for each section 1115 waiver approved by the U.S. department of health and human services. For any proposed section 1115 waiver not approved by the U.S. department of health and human services, the department shall provide to the next legislative session a report on the basis for disapproval and an analysis of the fiscal costs and programmatic impacts of serving the persons within the proposed section 1115 waiver eligibility groups through eligibility under one of the optional medicaid eligibility categories established in federal law and authorized by 53-6-131.

~~(18)~~(17) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal government.

~~(19)~~(18) The department shall present a section 1115 waiver proposal to the house appropriations committee or, during the interim, the children, families, health, and human services interim committee for review and comment at a public hearing prior to the submission of the proposal to the federal government for formal approval and shall also present the section 1115 waiver after final approval from the federal government.

~~(20)~~(19) (a) The department shall provide for a public comment period on the proposed section 1115 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government for formal approval.

(b) The department shall give notice of the proposal by announcing the pending submittal, stating its general purpose, and informing the public that information on the proposal is available on the department's website.

(c) The department shall provide for public comment through electronic means or mail and shall provide for a public forum in at least one location at which members of the public can submit views on the proposal. The department shall consider comments received and make any appropriate changes to the waiver request before submitting it to the federal government.

(d) The department shall post on its website the waiver concept paper, formal correspondence regarding

a waiver proposal, and the final approved waiver, including documents received from the ~~center~~ centers for medicare and medicaid services."

Section 8. Section 53-2-606, MCA, is amended to read:

"53-2-606. Right of appeal. (1) If an application for assistance for food stamps, ~~financial~~ cash assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made by which the applicant or recipient is aggrieved, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department of ~~public health and human services~~. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a local office of public assistance and may consider any application upon which a decision has not been made within a reasonable time from the filing of the decision. The department may have an additional eligibility determination made and shall ~~make a decision as to the granting of assistance and the amount of~~ determine whether and in what amount assistance is to be granted the applicant as in its opinion is justified and in conformity with under the provisions of this title.

(3) If the department reviews a decision on its own motion, applicants or recipients affected by the decisions of the department ~~shall~~ must upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance."

Section 9. Section 53-2-613, MCA, is amended to read:

"53-2-613. Application for assistance -- assignment of support rights. (1) Applications for public assistance, including but not limited to ~~financial~~ cash assistance or nonfinancial assistance, as defined in 53-2-902, and medical assistance, may be made in any local office of public assistance. The application must be submitted; in the manner and form prescribed by the department; and must contain information required by the department.

(2) A person who signs an application for ~~financial~~ cash assistance, as defined in 53-2-902, or for related medical assistance assigns to the state, to the department, and to the county, if county funds were used to pay for services, all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made. A person who signs

an application for public assistance other than ~~financial~~ cash assistance, as defined in 53-2-902, or for related medical assistance may, in accordance with rules adopted by the department, be required to assign to the state, to the department, and to the county all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or on behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for current support and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance; and

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) If a person who is the legal custodian and child support obligee under a support order relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

(5) Whenever a child support or spousal support obligation is assigned to the department pursuant to this section, the following provisions apply:

(a) If the support obligation is based upon a judgment or decree or an order of a court of competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the cumulative total of public assistance money expended.

(b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.

(c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:

(i) the assignment of current support amounts has been terminated; and

(ii) all assigned support delinquencies, if any, are satisfied or released.

(d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the local office of public assistance.

(e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 10. Section 53-2-901, MCA, is amended to read:

"53-2-901. Administration of food stamp program -- rulemaking authority. (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of ~~financial~~ cash assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

- (a) requirements for recipients to assign the right of support;
- (b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and
- (c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C. 2015."

Section 11. Section 53-2-902, MCA, is amended to read:

"53-2-902. Definitions. As used in this part, the following definitions apply:

(1) "Cash assistance" means the programs designed to provide families with monthly cash grants and opportunities leading to self-support and funded, in part, with temporary assistance for needy families block grant funds as provided in 45 CFR 260.31(a).

~~(1)(2) "Department" means the department of public health and human services provided in Title 2, chapter 15, part 22 for in 2-15-2201.~~

~~(2) "Employment and training demonstration project" means the employment and training program for recipients of financial assistance who are participating in the FAIM project.~~

~~—— (3) "FAIM project" means the families achieving independence in Montana project, including the financial assistance part, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.~~

~~(4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a):~~

~~(b) The term does not include nonfinancial assistance.~~

~~(5)(3) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.~~

~~(6)(4) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).~~

~~(7)(5) "Temporary assistance for needy families" means the block grant established pursuant to 42~~

U.S.C. 601, et seq."

Section 12. Section 53-2-903, MCA, is amended to read:

"53-2-903. Employment and training program. The department shall establish and administer an employment and training program for food stamp recipients that is in compliance with federal requirements. ~~For purposes of the FAIM project, in accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may merge its food stamp program employment and training program with its financial assistance employment and training program or may modify the rules and requirements of the food stamp program employment and training program as necessary to make them consistent with those of the employment and training demonstration project.~~"

Section 13. Section 53-3-115, MCA, is amended to read:

"53-3-115. Legislative findings. (1) The legislature finds that in order to use the limited resources of the state for the purposes of providing public assistance to persons whom it has determined are in need, certain programs must be eliminated and the provision of public assistance programs must be reorganized for more efficient delivery of services.

(2) The legislature finds that county governments are in the best position to efficiently and effectively deliver services for those in need who are not otherwise eligible for similar services provided by the department of public health and human services.

(3) (a) The legislature finds that the needs of persons who are aged, infirm, or misfortunate are adequately and appropriately provided for through the following programs:

- (i) medicaid;
- (ii) ~~financial~~ cash assistance, as defined in 53-2-902;
- (iii) food stamps;
- (iv) commodities; and
- (v) low-income energy assistance.

(b) The legislature further finds that the counties may in their discretion provide other programs of public assistance that they determine are appropriate and that may be funded with money derived from a county mill levy.

(4) The legislature finds that the effects of eliminating the state program of general relief are not known and that the administration and financing of public assistance programs by each county may not provide uniform assistance throughout the state."

Section 14. Section 53-4-201, MCA, is amended to read:

"53-4-201. Definitions. As used in part 6 and this part, the following definitions apply:

(1) "Approved educational program" means:

(a) a program in a unit of the Montana university system, as provided in 20-25-201, a community college, a tribal college, or any other accredited college in Montana in which an individual is enrolled in pursuit of an associate's or baccalaureate degree; or

(b) an accredited high school or training program approved by the department by rule.

(2) "Assessment" means the process of evaluating a recipient's skills, education, job readiness, and barriers to employment. The term may include further in-depth examination to identify and access services and resources to assist the recipient in eliminating barriers to employment if barriers are identified during the initial assessment.

(3) "Cash assistance" means the programs designed to provide families with monthly cash grants and opportunities leading to self-support and funded, in part, with temporary assistance for needy families block grant funds as provided in 45 CFR 260.31(a).

~~(3)~~(4) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4)~~(5) (a) "Dependent child", for public assistance purposes, means:

(i) a child under 18 years of age; or

(ii) a person under 19 years of age who is a student, as defined by the department by rule.

(b) The person described in subsection ~~(4)(a)(i)~~ (5)(a)(i) or ~~(4)(a)(ii)~~ (5)(a)(ii) must be living with a specified caretaker relative, as defined by the department by rule.

~~(5) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.~~

(6) "Family" means a group of people who live with a dependent child, each of whom is related to the dependent child by blood, marriage, or adoption or by law, such as:

(a) a parent, including a natural or adoptive parent, a stepparent, or a person considered by law to be a parent in the case of a child conceived by artificial insemination; or

(b) a sibling.

(7) "Federal poverty level" means the measure of indigence established annually by the U.S. office of management and budget.

~~(8) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).~~

(8) "Individual responsibility plan" means a plan developed pursuant to 42 U.S.C. 608(b) that outlines the employment goals and service needs of a person receiving cash assistance or nonfinancial assistance and required to participate in employment and training activities.

(9) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(10) "Public assistance" or "assistance" means a 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.

(11) "Specified caretaker relative" means a person within a degree of kinship to the dependent child, as specified by department rule, who lives with the child and exercises care and control over the child.

~~(12) "State plan" means the policies and procedures governing the state of Montana's FAIM project and other programs funded by temporary assistance for needy families. It is as prepared by the department and certified by the federal agency that provides funding for these the programs.~~

(13) "Temporary assistance for needy families" means the federal block grant established pursuant to 42 U.S.C. 601, et seq."

Section 15. Section 53-4-202, MCA, is amended to read:

"53-4-202. Financial Cash assistance to be in effect in all counties. (1) It is required that the state plan and programs described in the state plan must be in effect in each county of the state.

(2) It is not required that the programs funded under temporary assistance for needy families be uniformly administered in each county of the state, provided that ~~it is~~ the programs are administered in accordance with all requirements of the state plan and federal law. The department may also administer demonstration programs pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, or any other

provision of that act that permits the states to administer experimental, pilot, or demonstration projects.

(3) An enrolled member of an Indian tribe participating in a program that is funded, at least in part, by temporary assistance for needy families must be subject to the same rules, policies, and requirements as all other applicants for and recipients of benefits funded by temporary assistance for needy families unless an exception is expressly granted by federal law."

Section 16. Section 53-4-212, MCA, is amended to read:

"53-4-212. Department to adopt rules. (1) The department shall adopt rules and take action as necessary or desirable for the administration of public assistance programs.

(2) Subject to subsection (3), the department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for ~~financial~~ cash assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into ~~a family investment agreement, as provided for in 53-4-606,~~ an individual responsibility plan or to comply with the individual's obligations under the ~~agreement, including the length of the period of ineligibility,~~

if any plan;

(i) requirements, if any, for participation in ~~the~~ a temporary assistance to needy families employment and training ~~demonstration project~~ program;

~~(j)~~ eligibility for and terms and conditions of extended medical assistance benefits;

~~(k)~~ (j) reporting requirements;

~~(l)~~ (k) sanctions, disqualification, or other penalties for failure or refusal to comply with the rules or requirements of a public assistance program;

~~(m)~~ (l) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

~~(n)~~ (m) individuals who must be included as members of an assistance unit;

~~(o)~~ (n) categories of aliens who may receive assistance, if any;

~~(p)~~ (o) requirements relating to the assignment of child ~~and medical~~ support rights and cooperation in establishing paternity and obtaining child ~~and medical~~ support;

~~(q)~~ (p) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

~~(r)~~ (q) special eligibility or participation requirements applicable to teenage parents, if any;

~~(s)~~ (r) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued;

~~(t)~~ (s) any random drug testing or reporting requirements for persons who are required to comply with the conditions provided under 53-4-231(3) and graduated sanctions that may include terms of ineligibility for violations of conditions of supervision or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under the supervision of the department of corrections.

~~(u)~~ (t) approved educational programs, appropriate educational courses of study, employee assessment instruments, and administration of the Montana parents as scholars program provided for in 53-4-209.

(3) ~~By October 1, 2009, the~~ The department shall adopt rules establishing a net income limit of 250% of the current federal poverty level for federal funds or state general fund money used for participating families

in the child care for working caretaker relatives program. The department may incorporate an earned income work disregard of \$200 and an additional 25% disregard from the household's gross income to determine the household's net income."

Section 17. Section 53-4-221, MCA, is amended to read:

"53-4-221. County department charged with local State administration. The local office of public assistance department is responsible for the local administration and supervision of programs funded under the temporary assistance for needy families block grant, ~~subject to the powers, duties, and functions prescribed for the office in chapter 2 of this title.~~"

Section 18. Section 53-4-231, MCA, is amended to read:

"53-4-231. Eligibility. (1) Subject to the provisions of subsections (2) through (6), assistance may be granted under this part to:

- (a) a dependent child;
- (b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:
 - (i) enters into ~~a family investment agreement, as provided for in 53-4-606,~~ an individual responsibility plan if required by the department; and
 - (ii) cooperates in all assessments and screening required by the department;
 - (c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;
 - (d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;
 - (e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

(3) A person who has been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is eligible for public assistance if the

person is actively complying with the conditions of supervision, including participating in treatment if required, or has discharged the sentence associated with the felony conviction ~~and if the person is actively participating in treatment, if required.~~

(4) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

(c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child ~~and medical~~ support rights to the department or to cooperate in establishing paternity or obtaining child ~~or medical~~ support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a ~~family investment agreement required by the department under 53-4-606~~ an individual responsibility plan;

(f) teenage parents who fail or refuse to attend secondary school or another training program as required by the department by rule;

(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608; and

(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608. The ineligibility continues for a period of 10 years beginning on the date of conviction.

(5) A family is not eligible for ~~financial~~ cash assistance if the family includes an adult who has received ~~financial~~ cash assistance in a program funded under temporary assistance for needy families in any state or states for 60 months or more, whether or not the months are consecutive, unless an exception is expressly

granted by federal law.

(6) This part may not be interpreted to entitle any individual or family to assistance under programs funded by temporary assistance for needy families."

Section 19. Section 53-4-232, MCA, is amended to read:

"53-4-232. Application for assistance. Application for assistance under this part must be made to the local office of public assistance in the county in which the dependent child is residing ~~department~~. The application must be made by the relative with whom the child is living or will live. One application may be made for several children of the same family if they reside with the same person. All individuals wishing to make application for this assistance must be given the opportunity to do so."

Section 20. Section 53-4-233, MCA, is amended to read:

"53-4-233. Eligibility determination for applications. ~~Whenever a local office of public assistance receives~~ (1) Upon receiving an application for assistance under this part, an the department shall promptly make an eligibility determination must be promptly made by the local office of public assistance and notify the applicant in writing of the eligibility decision.

(2) Each applicant shall participate in any screening required by the department and must be informed of the applicant's right to a fair hearing and of the confidential nature of information secured.

(3) Upon completion of an eligibility determination and any required screening, aid must be furnished promptly to all eligible persons. Each applicant must receive written notice of the decision concerning the applicant's request for assistance."

Section 21. Section 53-4-241, MCA, is amended to read:

"53-4-241. Amount of assistance determined by department rules. The amount of financial cash assistance or nonfinancial assistance granted in any case must be determined according to the rules and standards of assistance established by the department."

Section 22. Section 53-4-244, MCA, is amended to read:

"53-4-244. Payments to person interested in child's welfare in lieu of special guardianship. In lieu

of guardianship proceedings, payments may be made in behalf of the child or children to another person found by the ~~local office of public assistance~~ department to be interested in or concerned with the welfare of the needy child or children in accordance with the rules established by the department."

Section 23. Section 53-4-602, MCA, is amended to read:

"53-4-602. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cash assistance" means ~~monetary payments to a recipient of financial assistance to meet basic needs, such as shelter, utilities, clothing, and personal needs~~ the programs designed to provide families with monthly cash grants and opportunities leading to self-support and funded, in part, with temporary assistance for needy families block grant funds as provided in 45 CFR 260.31(a).

(2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a dependent child to defray the cost of having a third party care for the child.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) ~~"FAIM project" means the families achieving independence in Montana project, including a financial assistance part, a food stamp part administered under the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.~~

(5)(4) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the department's income limitations, as increased each year by that year's increase in the Consumer Price Index for Urban Wage Earners, compiled by the U.S. department of labor, bureau of labor statistics, and other standards approved by the federal government for 1996 for the federal aid to families with dependent children program, as that program was established under Title IV of the federal Social Security Act (~~42 U.S.C. 601, et seq.~~)."

Section 24. Section 53-4-611, MCA, is amended to read:

"53-4-611. Child-care assistance. ~~The~~ Within available funding, the department may provide child-care assistance to:

(1) all families receiving financial cash assistance if child care is necessary to allow the parent to engage in paid employment ~~and if funding is available. Child-care assistance may be provided to; and~~

~~(2) families receiving financial cash assistance if child care is necessary to allow either or both parents to engage in the activities required by a family investment agreement under 53-4-606 an individual responsibility plan and if funding is available."~~

Section 25. Section 53-4-613, MCA, is amended to read:

"53-4-613. Employment and training program. In cases in which the department determines that participation in the employment and training program would be appropriate for a recipient of financial cash assistance, the recipient may be required to participate in employment and training as one of the eligibility conditions of the family investment agreement required under 53-4-606. The department may count education activities as an allowable work activity in a family investment agreement for up to 60 months in a FAIM project cash assistance program consistent with federal law."

Section 26. Section 53-4-702, MCA, is amended to read:

"53-4-702. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1) (a) "Cash assistance" means the programs designed to provide families with monthly cash grants and opportunities leading to self-support and funded, in part, with temporary assistance for needy families block grant funds as provided in 45 CFR 260.31(a).~~

~~(b) The term does not include nonfinancial assistance.~~

~~(1)(2) "Department" means the department of public health and human services provided for in 2-15-2201.~~

~~(2) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.~~

~~(3) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).~~

~~(b) The term does not include nonfinancial assistance.~~

~~(4)(3) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).~~

~~(5)(4) "Temporary assistance for needy families" means the block grant program established pursuant~~

to 42 U.S.C. 601, et seq."

Section 27. Section 53-4-704, MCA, is amended to read:

"53-4-704. Placement of financial cash assistance recipients or food stamp program participants for purpose of training. (1) The department or a person designated by the department may place an individual receiving financial cash assistance or participating in the food stamp program into a position of employment with a public or private entity for the purpose of training the individual in the knowledge and skills necessary for the individual to become successfully employed.

(2) The department may, pursuant to subsection (1), place an individual into a position at a worksite only with the permission and assistance of the public or private entity at the worksite under a written training agreement between the department and the entity.

(3) The placement of an individual into a position at a public or private worksite pursuant to subsection (1) is only for the purpose of training the individual in employment knowledge and skills and is not for the purpose of providing paid employment for the individual. The placement may not supplant an existing employment position or another individual already employed at the worksite. Placement of the individual at the public or private worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training purposes of the program.

(4) The private or public entity where an individual is placed pursuant to subsection (1) may choose whether or not to later employ the individual after the conclusion of the individual's training."

Section 28. Section 53-4-705, MCA, is amended to read:

"53-4-705. Services and activities. Under the program provided for in 53-4-703, the department shall make available a broad range of services and activities to assist recipients of financial cash assistance as specified by the department by rule."

Section 29. Section 53-4-706, MCA, is amended to read:

"53-4-706. Participation requirements. (1) Except as otherwise provided in this section, the department may require individuals to participate in the an employment and training program as a condition of their eligibility for financial cash assistance.

(2) To the extent that the program is available and that state resources permit, the department shall require recipients of financial cash assistance to participate in the program if the department determines that it is an appropriate activity for the recipient and includes participation as a condition of the recipient's family investment agreement as provided for in 53-4-606 individual responsibility plan."

Section 30. Section 53-4-717, MCA, is amended to read:

"53-4-717. Sanctions. If an individual receiving financial cash assistance is required to participate in ~~the an~~ employment and training program as a condition of ~~the individual's family investment agreement, as provided for in 53-4-606, an individual responsibility plan~~ and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of food stamps or medicaid coverage, and child-care benefits may only be continued for employment-related activities required by the ~~family investment agreement individual responsibility plan~~ that the participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and ~~avail themselves of~~ obtain additional case management services to ensure compliance with the ~~family investment agreement individual responsibility plan.~~"

Section 31. Section 53-6-101, MCA, is amended to read:

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

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

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

- (c) private-duty nursing services;
 - (d) dental services;
 - (e) physical therapy services;
 - (f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;
 - (g) clinical social worker services;
 - (h) prescribed drugs, dentures, and prosthetic devices;
 - (i) prescribed eyeglasses;
 - (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
 - (k) inpatient psychiatric hospital services for persons under 21 years of age;
 - (l) services of professional counselors licensed under Title 37, chapter 23;
 - (m) hospice care, as defined in 42 U.S.C. 1396d(o);
 - (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;
 - (o) services of psychologists licensed under Title 37, chapter 17;
 - (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
 - (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.
- (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy 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~~ cash 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~~ cash 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 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

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

(12) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical

services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Section 32. Repealer. The following sections of the Montana Code Annotated are repealed:

- 53-4-216. Reports to federal government.
- 53-4-250. Purchase of surplus motor vehicles for recipients of temporary assistance for needy families funds -- criteria for recipient purchase program.
- 53-4-255. Revolving loan account.
- 53-4-256. Administration of revolving loan account -- rulemaking authority.
- 53-4-257. Outcome measures.
- 53-4-601. Demonstration project -- purpose.
- 53-4-606. Requirements for eligibility -- family investment agreement.
- 53-4-609. Categorical eligibility for other assistance.
- 53-4-612. Extended medical assistance benefits.
- 53-4-721. Sanctions policy -- study.

Section 33. Effective date. [This act] is effective July 1, 2019.

- END -

I hereby certify that the within bill,
HB 0079, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 79
INTRODUCED BY T. WELCH
BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

AN ACT REVISING LAWS RELATED TO ASSISTANCE FOR LOW-INCOME FAMILIES WITH DEPENDENT CHILDREN; REMOVING OUTDATED TERMINOLOGY; PROVIDING DEFINITIONS; CLARIFYING APPLICATION AND ELIGIBILITY PROCESSES; AMENDING SECTIONS 39-7-303, 39-71-118, 40-4-215, 52-2-710, 53-2-201, 53-2-211, 53-2-215, 53-2-606, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-3-115, 53-4-201, 53-4-202, 53-4-212, 53-4-221, 53-4-231, 53-4-232, 53-4-233, 53-4-241, 53-4-244, 53-4-602, 53-4-611, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, AND 53-6-101, MCA; REPEALING SECTIONS 53-4-216, 53-4-250, 53-4-255, 53-4-256, 53-4-257, 53-4-601, 53-4-606, 53-4-609, 53-4-612, AND 53-4-721, MCA; AND PROVIDING AN EFFECTIVE DATE.