

1 HOUSE BILL NO. 424

2 INTRODUCED BY B. BESSETTE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COVERAGE OF HABILITATIVE SERVICES FOR ALL
5 INDIVIDUALS ELIGIBLE FOR MEDICAID; AMENDING SECTIONS 53-6-101, 53-6-704, 53-6-1305, AND
6 53-21-1202, MCA; AND PROVIDING AN EFFECTIVE DATE."

7

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

9

10 **Section 1.** Section 53-6-101, MCA, is amended to read:

11 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid
12 program established for the purpose of providing necessary medical services to eligible persons who have need
13 for medical assistance. The Montana medicaid program is a joint federal-state program administered under this
14 chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall
15 administer the Montana medicaid program.

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

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

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

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

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

26 (a) inpatient hospital services;

27 (b) outpatient hospital services;

28 (c) other laboratory and x-ray services, including minimum mammography examination as defined in
29 33-22-132;

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

- 1 (e) physicians' services;
- 2 (f) nurse specialist services;
- 3 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age,
4 in accordance with federal regulations and subsection (10)(b);
- 5 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in
6 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 7 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant
8 women;
- 9 (j) services that are provided by physician assistants within the scope of their practice and that are
10 otherwise directly reimbursed as allowed under department rule to an existing provider;
- 11 (k) health services provided under a physician's orders by a public health department;
- 12 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
- 13 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
14 provided in 33-22-153; and
- 15 (n) ~~for children 18 years of age and younger~~, habilitative services as defined in 53-4-1103 that help an
16 individual maintain, learn, or improve skills and functioning for daily living or that prevent deterioration of skills and
17 that may be offered in a variety of settings, including but not limited to:
- 18 (i) physical therapy;
- 19 (ii) occupational therapy;
- 20 (iii) speech-language pathology; and
- 21 (iv) behavioral health treatment, including applied behavior analysis provided or supervised by a behavior
22 analyst licensed pursuant to Title 37, chapter 17, part 4.
- 23 (4) Medical assistance provided by the Montana medicaid program may, as provided by department rule,
24 also include the following services:
- 25 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
26 practitioners within the scope of their practice as defined by state law;
- 27 (b) home health care services;
- 28 (c) private-duty nursing services;
- 29 (d) dental services;
- 30 ~~(e) physical therapy services;~~

1 ~~(f)~~(e) mental health center services administered and funded under a state mental health program
 2 authorized under Title 53, chapter 21, part 10;
 3 ~~(g)~~(f) clinical social worker services;
 4 ~~(h)~~(g) prescribed drugs, dentures, and prosthetic devices;
 5 ~~(i)~~(h) prescribed eyeglasses;
 6 ~~(j)~~(i) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
 7 ~~(k)~~(j) inpatient psychiatric hospital services for persons under 21 years of age;
 8 ~~(l)~~(k) services of professional counselors licensed under Title 37, chapter 23;
 9 ~~(m)~~(l) hospice care, as defined in 42 U.S.C. 1396d(o);
 10 ~~(n)~~(m) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted
 11 case management services for the mentally ill;
 12 ~~(o)~~(n) services of psychologists licensed under Title 37, chapter 17;
 13 ~~(p)~~(o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
 14 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;
 15 and
 16 ~~(q)~~(p) any additional medical service or aid allowable under or provided by the federal Social Security
 17 Act.

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

23 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S.
 24 department of health and human services, the department may implement limited medicaid benefits, to be known
 25 as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined
 26 in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult
 27 recipients of medical assistance only who are covered under a group related to a program providing financial
 28 assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection
 29 (3) but may include those optional services listed in subsections (4)(a) through ~~(4)(q)~~ (4)(p) that the department
 30 in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds

1 appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the
2 provision of a particular service is commonly covered by private health insurance plans. However, a recipient who
3 is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq.,
4 or is less than 21 years of age is entitled to full medicaid coverage.

5 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
6 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
7 and coinsurance for persons not otherwise eligible for medicaid.

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

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

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

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

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

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

22 (b) The department shall, with reasonable promptness, provide access to all medically necessary
23 services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access
24 to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

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

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

30

1 **Section 2.** Section 53-6-704, MCA, is amended to read:

2 **"53-6-704. Different benefit packages.** (1) (a) The department may by rule provide for different benefit
3 packages for different categories of persons enrolled in the program.

4 (b) Alcohol and substance abuse services, services for mental disorders, services related to children with
5 chronic or acute conditions requiring longer-term treatment and followup, and rehabilitation care provided by a
6 freestanding rehabilitation hospital or a rehabilitation unit may be excluded from a benefit package and those
7 services may be made available through a separate delivery system.

8 (c) The habilitative services required under 53-6-101(3)(n) may not be excluded from a benefit package.

9 (d) If a service is excluded from the program but made available in a separate delivery system by a
10 managed health care entity, that managed health care entity is subject to this part.

11 (e) An exclusion does not prohibit the department from developing and implementing demonstration
12 projects for categories of persons or services.

13 (f) Benefit packages for persons eligible for medical assistance under Title 53, chapter 6, parts 1 and
14 4, may be based on the requirements of those parts and must be consistent with the Title XIX of the Social
15 Security Act.

16 (g) This part applies only to services purchased by the department.

17 (2) The program established by this part may be implemented by the department in various contracting
18 areas at various times. The health care delivery systems and providers available under the program may vary
19 throughout the state. Except as otherwise provided in a contract for mental health services and subject to the
20 public comment and review provisions of 53-6-710 and 53-6-711, a licensed managed health care entity must
21 be permitted to contract in any geographic area for which it has a sufficient provider network and that otherwise
22 meets the requirements of the state contract."
23

24 **Section 3.** Section 53-6-1305, MCA, is amended to read:

25 **"53-6-1305. (Temporary) Montana HELP Act program -- delivery of health care services --**
26 **third-party administrator -- rulemaking.** (1) The department shall contract as provided in Title 18, chapter 4,
27 with one or more third-party administrators to assist in administering the delivery of health care services to
28 members eligible under 53-6-1304, including but not limited to:

29 (a) establishing networks of health care providers;

30 (b) paying claims submitted by health care providers;

- 1 (c) collecting the premiums provided for in 53-6-1307;
- 2 (d) coordinating care;
- 3 (e) helping to administer the program; and
- 4 (f) helping to administer the medicaid program reforms as specified in 53-6-1311.
- 5 (2) The department shall determine the basic health care services to be provided through the
- 6 arrangement with a third-party administrator. The services must include the habilitative services provided for in
- 7 53-6-101(3)(n).
- 8 (3) (a) The department may exempt certain individuals who are eligible for medicaid-funded services
- 9 pursuant to 53-6-1304 from receiving health care services through the arrangement with a third-party
- 10 administrator if the individuals would be served more appropriately through the medical assistance program
- 11 established in Title 53, chapter 6, part 1, because the individuals:
- 12 (i) have exceptional health care needs, including but not limited to medical, mental health, or
- 13 developmental conditions;
- 14 (ii) live in a geographical area, including an Indian reservation, for which the third-party administrator has
- 15 been unable to make arrangements with sufficient health care providers to offer services to the individuals;
- 16 (iii) need continuity of care that would not be available or cost-effective through the arrangement with the
- 17 third-party administrator; or
- 18 (iv) are otherwise exempt under federal law.
- 19 (b) The department shall:
- 20 (i) adopt rules establishing criteria for determining whether a member is exempt from receiving health
- 21 care services through an arrangement with a third-party administrator; and
- 22 (ii) provide coverage for exempted individuals through the medical assistance program established in Title
- 23 53, chapter 6, part 1.
- 24 (4) For members participating in the arrangement with the third-party administrator, the department shall
- 25 directly cover any service required under federal or state law that is not available through the arrangement with
- 26 the third-party administrator.
- 27 (5) The department shall:
- 28 (a) seek federal authorization from the U.S. department of health and human services through a waiver
- 29 authorized by 42 U.S.C. 1315 and other waivers or through other means, as may be necessary, to implement
- 30 all of the provisions of Title 39, chapter 12, and this part; and

1 (b) implement access to the health care services in accordance with the requirements necessary to
2 receive the federal medical assistance percentage provided for by 42 U.S.C. 1396d(y).

3 (6) The department may provide medicaid-funded services to members eligible pursuant to 53-6-1304
4 only upon federal approval of any necessary waivers. (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)"

5
6 **Section 4.** Section 53-21-1202, MCA, is amended to read:

7 **"53-21-1202. Crisis intervention programs -- rulemaking authority.** (1) The department shall, subject
8 to available appropriations for the purposes of this part, establish crisis intervention programs. The programs must
9 be designed to provide 24-hour emergency admission and care of persons suffering from a mental disorder and
10 requiring commitment in a temporary, safe environment in the community as an alternative to placement in jail.

11 (2) The department shall provide information and technical assistance regarding needed services and
12 assist counties and federally recognized tribal governments in developing plans for crisis intervention services
13 and for the provision of alternatives to jail placement.

14 (3) The department may provide crisis intervention programs as:

15 (a) a rehabilitative service under 53-6-101~~(4)(j)~~(4)(i); and

16 (b) a targeted case management service authorized in 53-6-101~~(4)(n)~~(4)(m).

17 (4) The department shall adopt rules to:

18 (a) implement the grant program provided for in 53-21-1203;

19 (b) contract for detention beds pursuant to 53-21-1204; and

20 (c) pay for short-term inpatient treatment that is provided pursuant to 53-21-1205."

21
22 **NEW SECTION. Section 5. Contingent voidness.** If a bill repealing or extending the termination date
23 in section 28, Chapter 368, Laws of 2015, is not passed and approved before June 30, 2019, then [section 3 of
24 this act] is void.

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26 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2019.

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