

1 HOUSE BILL NO. 216

2 INTRODUCED BY C. KEOGH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MEDICAID COVERAGE OF SERVICES
5 PROVIDED BY LICENSED OUTDOOR BEHAVIORAL PROGRAMS; REQUIRING THE PROGRAMS TO BE
6 STAFFED OR OPERATED BY LICENSED MENTAL HEALTH PROFESSIONALS; AND AMENDING
7 SECTIONS 50-5-220 AND 53-6-101, MCA."

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

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11 **Section 1.** Section 50-5-220, MCA, is amended to read:

12 **"50-5-220. Licensure of outdoor behavioral programs -- exemption.** (1) The department shall
13 provide for licensure of a qualified outdoor behavioral program that accepts public funding. An outdoor
14 behavioral program that does not accept public funds or governmental contracts is exempt from licensure.

15 (2) An outdoor behavioral program must ensure that program participants could be evacuated to the
16 program's licensed premises or another building in case of an emergency.

17 ~~(2)~~(3) The department shall develop administrative rules for licensure that must include program
18 requirements, staff requirements, staff-to-youth ratios, staff training and health requirements, youth admission
19 requirements, water and nutritional requirements, health care and safety, environmental requirements,
20 infectious disease control, transportation, and evacuation. The department may accept accreditation by a
21 nationally recognized accrediting or certifying body but may not require the accreditation."

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23 **Section 2.** Section 53-6-101, MCA, is amended to read:

24 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana
25 medicaid program established for the purpose of providing necessary medical services to eligible persons who
26 have need for medical assistance. The Montana medicaid program is a joint federal-state program administered
27 under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The
28 department shall administer the Montana medicaid program.

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

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

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

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

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

11 (a) inpatient hospital services;

12 (b) outpatient hospital services;

13 (c) other laboratory and x-ray services, including minimum mammography examination as defined in
14 33-22-132;

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

16 (e) physicians' services;

17 (f) nurse specialist services;

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

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

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

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

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

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

28 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as

1 provided in 33-22-153;

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

3 (o) services provided by a person certified in accordance with 37-2-318 to provide services in

4 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.

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

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

9 (b) home health care services;

10 (c) private-duty nursing services;

11 (d) dental services;

12 (e) physical therapy services;

13 (f) mental health center services administered and funded under a state mental health program

14 authorized under Title 53, chapter 21, part 10;

15 (g) clinical social worker services;

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

17 (i) prescribed eyeglasses;

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

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

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

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

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

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

25 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.

26 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;

27 (q) services provided in a therapeutically structured, supervised environment for persons under 21
28 years of age by outdoor behavioral programs licensed pursuant to 50-5-220 and operated or staffed by mental

1 health professionals as defined in 53-21-102;

2 ~~(g)(r)~~ services of behavioral health peer support specialists certified under Title 37, chapter 38,
3 provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and
4 ~~(+)(s)~~ any additional medical service or aid allowable under or provided by the federal Social Security
5 Act.

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

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

23 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
24 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
25 and coinsurance for persons not otherwise eligible for medicaid.

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

28 (b) The department shall strive to close gaps in services provided to individuals suffering from mental

1 illness and co-occurring disorders by doing the following:

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

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

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

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

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

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

17 (12) If available funds are not sufficient to provide medical assistance for all eligible persons, the
18 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
19 services made available under the Montana medicaid program after taking into consideration the funding
20 principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2023--sec. 7, Ch. 412, L.
21 2019.)"

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