

1 SENATE BILL NO. 296
 2 INTRODUCED BY B. BEARD, M. MALONE, T. WELCH, C. KEOGH, J. SCHILLINGER, T. RUNNING WOLF,
 3 C. KNUDSEN, A. BUCKLEY, D. FERN, S. VINTON, L. REKSTEN, M. CAFERRO, M. THANE, F. SMITH, M.
 4 BERTOGLIO, L. BREWSTER, J. DOOLING, M. BINKLEY, B. LER, A. REGIER, K. SEEKINS-CROWE, F.
 5 NAVE, R. MARSHALL, E. BUTTREY, D. LOGE, R. FITZGERALD, G. OBLANDER, J. BERGSTROM, T.
 6 BROCKMAN, G. PARRY, M. YAKAWICH, B. BROWN, J. SMALL, B. MOLNAR, S. HINEBAUCH, S.
 7 FITZPATRICK, M. DUNWELL, D. LENZ, M. LANG, R. MINER, K. ABBOTT, D. EMRICH, J. KASSMIER, B.
 8 PHALEN, J. FIELDER, L. DEMING, S. HOWELL, Z. WIRTH, R. KNUDSEN

9
 10 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SENIOR CARE FACILITY ACCESS AND
 11 STABILIZATION ACT; ~~REVISING FUNDING LAWS RELATED TO SKILLED NURSING AND ASSISTED~~
 12 ~~LIVING FACILITIES; ESTABLISHING PROCEDURES FOR CALCULATING PERSONAL NEEDS~~
 13 ~~ALLOWANCES AND ROOM AND BOARD COSTS FOR ASSISTED LIVING RESIDENTS; REQUIRING~~
 14 ~~MONEY APPROPRIATED FOR NURSING HOME SERVICES TO BE USED ONLY FOR THOSE PURPOSES;~~
 15 ~~REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PURSUE THE~~
 16 ~~COMMUNITY FIRST CHOICE FUNDING OPTION FOR ASSISTED LIVING; ESTABLISHING REPORTING~~
 17 ~~REQUIREMENTS; AMENDING SECTION 53-6-113, MCA; AND PROVIDING AN A DELAYED EFFECTIVE~~
 18 DATE."

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
 22 NEW SECTION. Section 1. — **Short title.** [Sections 1 through 8] may be cited as the "Senior Care
 23 Facility Access and Stabilization Act".

24
 25 NEW SECTION. Section 2. — **Purpose.** (1) The legislature affirms the importance of providing frail,
 26 elderly Montanans with quality residential long-term care services that meet health and safety standards and
 27 are provided close to home, family, and friends.

28 (2) — The purposes of [sections 1 through 8] are to :



1 nursing homes.

2 (b) — If the actual caseload in a fiscal year is less than the projected caseload, the appropriation may
3 be used to increase rates to close the gap between the weighted average m edicaid rate paid to nursing homes
4 and the actual weighted average costs identified in facility cost reports, indexed forward for inflation.

5 (c) — If no gap exists between the rate paid and identified costs, the appropriation may be used for
6 quality incentives, workforce enhancements, or enhancements and incentives designed to stabilize access to
7 and improve the quality of nursing home services.

8 (2) — Unencumbered funds appropriated to a department division for nursing home services may not
9 be transferred to another program within the division or to another department division. The unencumbered
10 money must revert to the fund from which it was appropriated.

11 (3) — The department shall report annually to the legislative finance committee in accordance with 5-
12 11-210 on the status of appropriations for nursing home services.

13
14 **NEW SECTION. Section 7. Inflationary adjustments for assisted living services.** (1) For
15 BEGINNING IN the fiscal year beginning July 1, 2025, the department shall increase rates paid for assisted living
16 facility services ANNUALLY, at a minimum, by an inflation factor equal to the consumer price index, U.S. city
17 average, all urban consumers, for all items, as published by the bureau of labor statistics of the United States
18 department of labor, BUT IN NO CASE MAY THE RATE INCREASE UNDER THIS SECTION EXCEED 3%.

19 (2) — For the fiscal year beginning July 1, 2027, and every 4 years thereafter, the department shall
20 conduct a comprehensive analysis of the cost of providing assisted living facility services and determine
21 whether rebasing the rates is necessary. The department shall report to the children, families, health, and
22 human services interim committee and the legislature in accordance with 5-11-210 on the results of the
23 analysis.

24
25 **NEW SECTION. Section 1. Calculation of room and board costs for assisted Assisted living**
26 **facility services -- personal needs allowance -- calculation** CALCULATION OF ROOM AND BOARD COSTS FOR
27 **ASSISTED LIVING FACILITY SERVICES.** (1) The department shall, at a minimum, annually adjust the amount that
28 persons enrolled in the Montana medicaid program must pay for room and board when receiving assisted living

1 facility services.

2 ~~(2) PERSONS ELIGIBLE FOR ASSISTED LIVING FACILITY SERVICES ARE ALLOWED A PERSONAL NEEDS~~
3 ~~ALLOWANCE. THE ALLOWANCE MUST BE SET AT \$100 A MONTH ON JULY 1, 2023, AND INCREASED ON JANUARY 1 OF~~
4 ~~EACH SUBSEQUENT CALENDAR YEAR BY THE SAME PERCENTAGE AS THE ANNUAL COST-OF-LIVING ADJUSTMENT MADE TO~~
5 ~~SOCIAL SECURITY BENEFITS PURSUANT TO 42 U.S.C. 415.~~

6 ~~(2)(3)(2)~~ The room and board payment for a person who is categorically eligible for the program
7 must equal the person's monthly supplemental security income payment minus a \$100 allowance to provide
8 personal needs funds ~~THE PERSONAL NEEDS ALLOWANCE~~ A \$100 ALLOWANCE TO PROVIDE PERSONAL NEEDS FUNDS.

9 ~~(3)(4)(3)~~ (a) The room and board payment for a person who qualifies for the program pursuant
10 to 53-6-131(1)(e)(ii)(A) must equal the person's countable gross income, minus:

11 (i) the amount of money the person must spend to qualify for medicaid; and

12 (ii) ~~\$100 to provide THE personal needs funds~~ ALLOWANCE \$100 TO PROVIDE PERSONAL NEEDS
13 FUNDS.

14 (b) After an initial adjustment made pursuant to subsection (3)(a), the department shall adjust the
15 room and board payments when the amount a person must spend to qualify for medicaid has been increased
16 or decreased to maintain ~~THE personal needs funds of \$100~~ ALLOWANCE FUNDS OF \$100.

17 ~~(4)(5)~~ For the fiscal year beginning July 1, ~~2023~~ 2025, the department shall adjust the room and
18 board payment levels as provided in this section ~~SUBSECTIONS (3) AND (4), AS APPROPRIATE,~~ THIS SECTION on July
19 1, ~~2023~~ 2025, and on January 1, ~~2024~~ 2026.

21 **Section 9.** Section 53-6-113, MCA, is amended to read:

22 **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary
23 for the administration of the Montana medicaid program as provided for in this part and that may be required by
24 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,
25 42 U.S.C. 1396, et seq., as amended.

26 ~~(2)~~ The department shall adopt rules that are necessary to further define for the purposes of this
27 part the services provided under 53-6-101 and to provide that services being used are medically necessary and
28 that the services are the most efficient and cost-effective available. The rules may establish the amount, scope,

1 ~~would be eligible for or able to access the services without prior authorization if the child was not in foster care."~~

2

3 NEW SECTION. Section 2. Direction to department of public health and human services. The
4 legislature directs the department of public health and human services to apply for a state plan amendment no
5 later than January 1, ~~2024~~ 2026, to make assisted living facility services currently covered under the big sky
6 waiver a service covered under the community first choice option available under the medicaid program.

7

8 NEW SECTION. Section 3. Reporting requirements -- big sky waiver and community first
9 choice programs. (1) Each quarter of the 2027 biennium, the department of public health and human services
10 shall report the following information for the preceding quarter to the health and human services interim budget
11 committee provided for in 5-12-501:

- 12 (a) the average number of people served each month through the big sky waiver and the
13 community first choice option administered by the division overseeing long-term care services;
- 14 (b) the average number of people on the waiting list for the big sky waiver each month;
- 15 (c) any changes in the number of providers participating in the community first choice option;
- 16 (d) the average per-capita expenditures in the big sky waiver and the community first choice
17 option; and
- 18 (e) the average utilization rate of individual service plan allotments in the community first choice
19 option.
- 20 (2) The reports must be provided in an electronic format and presented to the committee in person.

21

22 NEW SECTION. Section 4. Codification instruction. ~~[Sections 1 through 8] are~~ [SECTION 1] IS
23 intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply
24 to ~~[sections 1 through 8]~~ [SECTION 1].

25

26 COORDINATION SECTION. Section 12. Coordination instruction. If both House Bill No. 110 and
27 ~~[this act] are passed and approved, then the reference in [this act] to "legislative finance committee" in [section~~
28 ~~6(3)] must be changed to "health and human services interim budget committee".~~

Amendment - 1st Reading/2nd House-blue - Requested by: Bill Mercer - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

SB0296.003.001

1

2 NEW SECTION. Section 5. Effective dates DATE. (1) Except as provided in subsection (2), [this act]

3 [THIS ACT] is effective July 1, ~~2023~~ 2025.

4 ~~(2) [Section 4(1)(b)] is effective July 1, 2024.~~

5

- END -

AMEND