

1                                   \*\*\*\* BILL NO. \*\*\*\*  
2                                   INTRODUCED BY \*\*\*\*  
3                                   BY REQUEST OF THE \*\*\*\*  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING REQUIREMENTS FOR THE MEDICALLY NEEDY  
6 MEDICAID PROGRAM; ESTABLISHING THAT ELIGIBLE INDIVIDUALS MAY NOT BE REQUIRED TO MAKE  
7 QUALIFY THROUGH ONLY ONE METHOD FOR THE PROGRAM; CLARIFYING THAT MEDICAL  
8 EXPENSES FOR HOME AND COMMUNITY-BASED SERVICES WAIVER PARTICIPANTS MUST BE  
9 COUNTED IN THE SAME MANNER AS MEDICAL EXPENSES FOR OTHER MEDICALLY NEEDY  
10 INDIVIDUALS; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE  
11 DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14

15                   **Section 1.** Section 53-6-113, MCA, is amended to read:

16                   **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary  
17 for the administration of the Montana medicaid program as provided for in this part and that may be required by  
18 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,  
19 42 U.S.C. 1396, et seq., as amended.

20                   (2) The department shall adopt rules that are necessary to further define for the purposes of this part  
21 the services provided under 53-6-101 and to provide that services being used are medically necessary and that  
22 the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and  
23 duration of services provided under the Montana medicaid program, including the items and components  
24 constituting the services.

25                   (3) The department shall establish by rule the rates for reimbursement of services provided under this  
26 part. The department may in its discretion set rates of reimbursement that it determines necessary for the  
27 purposes of the program. In establishing rates of reimbursement, the department may consider but is not  
28 limited to considering:

- 1 (a) the availability of appropriated funds;
- 2 (b) the actual cost of services;
- 3 (c) the quality of services;
- 4 (d) the professional knowledge and skills necessary for the delivery of services; and
- 5 (e) the availability of services.

6 (4) The department shall specify by rule those professionals who may deliver or direct the delivery of  
 7 particular services.

8 (5) The department may provide by rule for payment by a recipient of a portion of the reimbursements  
 9 established by the department for services provided under this part.

10 (6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana  
 11 medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not  
 12 limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial  
 13 criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant  
 14 and recipient information, and cooperation with the state agency administering the child support enforcement  
 15 program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

16 (b) The department may not apply financial criteria below \$15,000 for resources other than income in  
 17 determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage  
 18 groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

19 (c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a  
 20 couple for resources other than income in determining the eligibility of individuals for the medicaid program for  
 21 workers with disabilities provided for in 53-6-195.

22 (d)(i) The department may not adopt rules or policies requiring a person who is eligible for medicaid  
 23 under 53-6-131(1)(e)(ii)(A) to:

24 (A) make only a cash payment to qualify for medicaid under that subsection; or

25 (B) only incur medical expenses as a means of qualifying for medicaid under that subsection.

26 (ii) If a person eligible for medicaid under 53-6-131(1)(e)(ii)(A) is participating in a home and  
 27 community-based services waiver, the department shall count as an eligible medical expense any medical  
 28 service or item that a nonwaiver medicaid member is allowed to count as a medical expense to qualify for

1 medicaid under subsection 53-6-131(1)(e)(ii)(A).

2 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that  
3 provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be  
4 amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

5 (8) The department may adopt rules necessary for the administration of medicaid managed care  
6 systems. Rules to be adopted may include but are not limited to rules concerning:

- 7 (a) participation in managed care;
- 8 (b) selection and qualifications for providers of managed care; and
- 9 (c) standards for the provision of managed care.

10 (9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for  
11 extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who  
12 lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the  
13 department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended  
14 medical assistance will be provided. The department, in exercising its discretion to set income limits and  
15 duration of assistance, may consider the amount of funds appropriated by the legislature.

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

19  
20 **Section 2.** Section 53-6-131, MCA, is amended to read:

21 **"53-6-131. (Temporary) Eligibility requirements.** (1) Medical assistance under the Montana  
22 medicaid program may be granted to a U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641 who is  
23 determined by the department of public health and human services to be a Montana resident and, in its  
24 discretion, to be eligible as follows:

25 (a) The person receives or is considered to be receiving supplemental security income benefits under  
26 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess  
27 of the applicable medical assistance limits.

28 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if

1 that person were to apply for that assistance.

2 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility,  
3 the person would be receiving assistance under the program in subsection (1)(a).

4 (d) The person is:

5 (i) under 21 years of age and in foster care under the supervision of the state or was in foster care  
6 under the supervision of the state and has been adopted as a child with special needs; or

7 (ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

8 (e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d)  
9 and:

10 (i) the person's income does not exceed the income level specified for federally aided categories of  
11 assistance and the person's resources are within the resource standards of the federal supplemental security  
12 income program; or

13 (ii) the person, while having income greater than the medically needy income level specified for  
14 federally aided categories of assistance:

15 (A) has an adjusted income level, after incurring medical expenses, that does not exceed the  
16 medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in  
17 cash to the department the amount by which the person's income exceeds the medically needy income level  
18 specified for federally aided categories of assistance; and

19 (B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the  
20 person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal  
21 supplemental security income program; or

22 (II) in the case of a person who meets the nonfinancial criteria for medical assistance because the  
23 person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not  
24 exceed the resource standards adopted by the department.

25 (f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

26 (g) The person is under 19 years of age and lives with a family having a combined income that does  
27 not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent  
28 necessary to maximize federal matching funds provided for in 53-4-1104.

1 (2) The department shall require an applicant to provide proof of the applicant's residency in this  
2 state.

3 (3) (a) The department may establish income and resource limitations. Limitations of income and  
4 resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise  
5 applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy  
6 Montana kids plan provided for in 53-4-1104.

7 (b) The department may not count as a resource an individual retirement account that was  
8 established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-  
9 195 if:

10 (i) the person is no longer eligible for coverage under 53-6-195; and

11 (ii) the individual retirement account was established during the time the person was receiving benefits  
12 through the medicaid program for workers with disabilities.

13 (4)(a) The department may not require a person who is eligible for medicaid under subsection

14 (1)(e)(ii)(A) to:

15 (i) make only a cash payment to qualify for medicaid under that subsection; or

16 (ii) only incur medical expenses as a means of qualifying for medicaid under that subsection.

17 (b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and  
18 community-based services waiver, the department shall count as an eligible medical expense any medical  
19 service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for  
20 medicaid under subsection (1)(e)(ii)(A).

21 ~~(4)~~(5) The Montana medicaid program shall pay, as required by federal law, the premiums necessary  
22 for medicaid-eligible persons participating in the medicare program and may, within the discretion of the  
23 department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified  
24 medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of  
25 the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

26 (a) has income that does not exceed income standards as may be required by the Social Security  
27 Act; and

28 (b) has resources that do not exceed standards that the department determines reasonable for

1 purposes of the program.

2 ~~(5)(6)~~ The department may pay a medicaid-eligible person's expenses for premiums, coinsurance,  
3 and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

4 ~~(6)(7)~~ In accordance with waivers of federal law that are granted by the secretary of the U.S.  
5 department of health and human services, the department of public health and human services may grant  
6 eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid  
7 benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931  
8 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social  
9 Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as  
10 provided in 53-6-101.

11 ~~(7)(8)~~ The department, under the Montana medicaid program, may provide, if a waiver is not available  
12 from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act,  
13 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons  
14 that may be designated by the act for receipt of assistance.

15 ~~(8)(9)~~ Notwithstanding any other provision of this chapter, medical assistance must be provided to  
16 infants and pregnant women whose family income does not exceed income standards adopted by the  
17 department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not  
18 exceed standards that the department determines reasonable for purposes of the program.

19 ~~(9)(10)~~ Subject to appropriations, the department may cooperate with and make grants to a nonprofit  
20 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to  
21 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other  
22 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

23 ~~(10)(11)~~ A person described in subsection (8) must be provided continuous eligibility for medical  
24 assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

25 ~~(11)(12)~~ Full medical assistance under the Montana medicaid program may be granted to an individual  
26 during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a  
27 precancerous condition of the breast or cervix, if the individual:

28 (a) has been screened for breast and cervical cancer under the Montana breast and cervical health

1 program funded by the centers for disease control and prevention program established under Title XV of the  
2 Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

3 (b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or  
4 cervix;

5 (c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

6 (d) is not eligible for medical assistance under any mandatory categorically needy eligibility group;

7 and

8 (e) has not attained 65 years of age.

9 (12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers  
10 with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2)  
11 and 42 U.S.C. 1396o.

12 ~~(13)~~(13) Nothing in subsection (1) may be construed as allowing the department to deny enrollment for  
13 a reason that is impermissible under federal law or regulation. (Terminates June 30, 2025, on occurrence of  
14 contingency--sec. 48, Ch. 415, L. 2019.)

15 **53-6-131. (Effective on occurrence of contingency) Eligibility requirements.** (1) Medical  
16 assistance under the Montana medicaid program may be granted to a person who is determined by the  
17 department of public health and human services, in its discretion, to be eligible as follows:

18 (a) The person receives or is considered to be receiving supplemental security income benefits under  
19 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess  
20 of the applicable medical assistance limits.

21 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if  
22 that person were to apply for that assistance.

23 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility,  
24 the person would be receiving assistance under the program in subsection (1)(a).

25 (d) The person is:

26 (i) under 21 years of age and in foster care under the supervision of the state or was in foster care  
27 under the supervision of the state and has been adopted as a child with special needs; or

28 (ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

1 (e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d)

2 and:

3 (i) the person's income does not exceed the income level specified for federally aided categories of  
4 assistance and the person's resources are within the resource standards of the federal supplemental security  
5 income program; or

6 (ii) the person, while having income greater than the medically needy income level specified for  
7 federally aided categories of assistance:

8 (A) has an adjusted income level, after incurring medical expenses, that does not exceed the  
9 medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in  
10 cash to the department the amount by which the person's income exceeds the medically needy income level  
11 specified for federally aided categories of assistance; and

12 (B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the  
13 person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal  
14 supplemental security income program; or

15 (II) in the case of a person who meets the nonfinancial criteria for medical assistance because the  
16 person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not  
17 exceed the resource standards adopted by the department.

18 (f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

19 (g) The person is under 19 years of age and lives with a family having a combined income that does  
20 not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent  
21 necessary to maximize federal matching funds provided for in 53-4-1104.

22 (2) (a) The department may establish income and resource limitations. Limitations of income and  
23 resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise  
24 applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy  
25 Montana kids plan provided for in 53-4-1104.

26 (b) The department may not count as a resource an individual retirement account that was  
27 established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-  
28 195 if:

- 1 (i) the person is no longer eligible for coverage under 53-6-195; and
- 2 (ii) the individual retirement account was established during the time the person was receiving benefits
- 3 through the medicaid program for workers with disabilities.

4 (3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for

5 medicaid-eligible persons participating in the medicare program and may, within the discretion of the

6 department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified

7 medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of

8 the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

9 (a) has income that does not exceed income standards as may be required by the Social Security

10 Act; and

11 (b) has resources that do not exceed standards that the department determines reasonable for

12 purposes of the program.

13 (4)(a) The department may not require a person who is eligible for medicaid under subsection

14 (1)(e)(ii)(A) to:

15 (i) make only a cash payment to qualify for medicaid under that subsection; or

16 (ii) only incur medical expenses as a means of qualifying for medicaid under that subsection.

17 (b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and

18 community-based services waiver, the department shall count as an eligible medical expense any medical

19 service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for

20 medicaid under subsection (1)(e)(ii)(A).

21 ~~(4)~~(5) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance,

22 and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

23 ~~(5)~~(6) In accordance with waivers of federal law that are granted by the secretary of the U.S.

24 department of health and human services, the department of public health and human services may grant

25 eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid

26 benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931

27 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social

28 Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as

1 provided in 53-6-101.

2 ~~(6)~~(7) The department, under the Montana medicaid program, may provide, if a waiver is not available  
3 from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act,  
4 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons  
5 that may be designated by the act for receipt of assistance.

6 ~~(7)~~(8) Notwithstanding any other provision of this chapter, medical assistance must be provided to  
7 infants and pregnant women whose family income does not exceed income standards adopted by the  
8 department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not  
9 exceed standards that the department determines reasonable for purposes of the program.

10 ~~(8)~~(9) Subject to appropriations, the department may cooperate with and make grants to a nonprofit  
11 corporation that uses donated funds to provide basic preventive and primary health care medical benefits to  
12 children whose families are ineligible for the Montana medicaid program and who are ineligible for any other  
13 health care coverage, are under 19 years of age, and are enrolled in school if of school age.

14 ~~(9)~~(10) A person described in subsection (7) must be provided continuous eligibility for medical  
15 assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

16 ~~(10)~~(11) Full medical assistance under the Montana medicaid program may be granted to an individual  
17 during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a  
18 precancerous condition of the breast or cervix, if the individual:

19 (a) has been screened for breast and cervical cancer under the Montana breast and cervical health  
20 program funded by the centers for disease control and prevention program established under Title XV of the  
21 Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

22 (b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or  
23 cervix;

24 (c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

25 (d) is not eligible for medical assistance under any mandatory categorically needy eligibility group;

26 and

27 (e) has not attained 65 years of age.

28 ~~(11)~~(12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to

1 workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and  
2 (r)(2) and 42 U.S.C. 1396o."

3

4 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2021.

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- END -

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