

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

4  
5   A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PRESUMPTIVE ELIGIBILITY UNDER THE  
6   MONTANA MEDICAID PROGRAM FOR HOME AND COMMUNITY-BASED SERVICES FOR PERSONS  
7   WITH PHYSICAL DISABILITIES AND PERSONS WHO ARE ELDERLY; PROVIDING AN APPROPRIATION;  
8   REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO APPLY FOR A  
9   MEDICAID WAIVER TO FUND THE PROGRAM; AND PROVIDING AN EFFECTIVE DATE."

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

12               **This legislation does not modify 53-6-401; italicized text included only for convenient reference.**

13               **"53-6-401. Definitions.** *As used in this part, the following definitions apply:*

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

16               (2)    *"Home and community-based services" means, as provided for in section 1915 of Title XIX of*  
17               *the Social Security Act, 42 U.S.C. 1396n(c), and any regulations implementing that statute, long-term*  
18               *medical, habilitative, rehabilitative, and other services provided in personal residences or in community*  
19               *settings and funded by the department with medicaid money.*

20               (3)    *"Level-of-care determination" means an assessment of a person and the resulting*  
21               *determination establishing whether long-term care facility services to be provided to the person are*  
22               *appropriate to meet the health care and related circumstances and needs of the person.*

23               (4)    *"Long-term care facility" means a facility that is certified by the department, as provided in*  
24               *53-6-106, to provide skilled or intermediate nursing care services, including intermediate nursing care services*  
25               *for persons with developmental disabilities or, for the purposes of implementation of medicaid-funded programs*  
26               *of home and community-based services, that is recognized by the U.S. department of health and human*  
27               *services to be an institutional setting from which persons may be diverted through the receipt of home and*  
28               *community-based services.*

1           (5)       *"Long-term care preadmission screening" means, in accordance with section 1919 of Title XIX*  
2 *of the Social Security Act, 42 U.S.C. 1396r, a process conducted according to a specific set of criteria for*  
3 *determining whether a person with intellectual disability or mental illness may be admitted to a long-term*  
4 *care facility.*

5           (6)       *"Persons with disabilities or persons who are elderly" means, for purposes of establishing*  
6 *home and community-based services, those categories of persons who are elderly and disabled as defined in*  
7 *accordance with section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n."*

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9           NEW SECTION. Section 1. Presumptive eligibility for persons with physical disabilities or  
10 **elderly persons.** (1) (a) Presumptive eligibility under the Montana medicaid program for certain home and  
11 community-based services may be granted to a person who has a physical disability or who is elderly upon  
12 completion of the screening process described in this section and authorization by the division of the  
13 department that administers long-term care services for senior citizens and individuals with physical disabilities.

14           (b)       Home and community-based services covered by the presumptive eligibility program in [this  
15 section] include personal care services, meal delivery, personal emergency response systems, medical  
16 equipment and supplies, assistive or adaptive technology, and other services necessary to successfully  
17 transition a patient from a hospital to the community or stabilize a patient within the community to prevent  
18 hospitalization.

19           (2)       The screening process may be conducted by:

20           (a)       staff of the division of the department that administers long-term care services for senior  
21 citizens and individuals with physical disabilities; or

22           (b)       staff of one of the following facilities who have received training and certification from the  
23 department to make presumptive eligibility determinations:

24           (i)       an area agency on aging or their designated subcontractor,

25           (ii)       a tribal entity, or

26           (iii)       a hospital or hospital-affiliated facility; or

27           (vi)       other entities deemed appropriate by the department or the division of the department that  
28 administers long-term care services for seniors citizens and individuals with physical disabilities.

1 (c) Training must be completed initially before an entity is certified to complete presumptive  
2 eligibility determinations and annually thereafter.

3 (3) The screening process shall include:

4 (a) an application as prescribed by the department; and

5 (b) self-attestation that the applicant meets the income, resource, and residency requirements of  
6 the Montana medicaid program prescribed in 53-6-131; and

7 (c) a functional assessment to establish an in-home and community care plan.

8 (4) The applicant or the applicant's representative must submit an application for ongoing  
9 coverage under the Montana medicaid program provided for in 53-6-131 within 10 calendar days of the  
10 applicant's presumptive eligibility determination.

11 (5) The presumptive eligibility period begins on the date the screening is completed and ends on  
12 the date a determination of ongoing Montana medicaid program eligibility is made or the end of the month  
13 following the month of the presumptive eligibility determination, whichever is earlier.

14 (6) A person may receive services under a presumptive eligibility only once within a consecutive  
15 12-month period.

16 (7) The applicant does not have a right to an administrative hearing on presumptive eligibility.  
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18 **NEW SECTION. Section 2. Appropriation.** [This section intentionally left blank for committee  
19 consideration.]

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21 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral  
22 part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 2].  
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24 **NEW SECTION. Section 4. Effective date.** [This section intentionally left blank for committee  
25 consideration.]

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