

1 HOUSE BILL NO. 248

2 INTRODUCED BY J. KARJALA

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MEDICAID COVERAGE OF LOW-RISK HOME BIRTHS
5 ATTENDED BY DIRECT-ENTRY MIDWIVES; PROVIDING RULEMAKING AUTHORITY; AMENDING
6 SECTIONS 53-6-101 AND 53-6-113, 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; and
16 (o) services provided by direct-entry midwives licensed pursuant to Title 37, chapter 27, including
17 planned home births for women with a low risk of adverse birth outcomes.
- 18 (4) Medical assistance provided by the Montana medicaid program may, as provided by department rule,
19 also include the following services:
- 20 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
21 practitioners within the scope of their practice as defined by state law;
- 22 (b) home health care services;
- 23 (c) private-duty nursing services;
- 24 (d) dental services;
- 25 (e) physical therapy services;
- 26 (f) mental health center services administered and funded under a state mental health program
27 authorized under Title 53, chapter 21, part 10;
- 28 (g) clinical social worker services;
- 29 (h) prescribed drugs, dentures, and prosthetic devices;
- 30 (i) prescribed eyeglasses;

- 1 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 2 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 3 (l) services of professional counselors licensed under Title 37, chapter 23;
- 4 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 5 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case
6 management services for the mentally ill;
- 7 (o) services of psychologists licensed under Title 37, chapter 17;
- 8 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h),
9 in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
- 10 (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.
- 11 (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as
12 described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
13 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
14 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
15 category of assistance.
- 16 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S.
17 department of health and human services, the department may implement limited medicaid benefits, to be known
18 as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined
19 in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult
20 recipients of medical assistance only who are covered under a group related to a program providing financial
21 assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection
22 (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its
23 discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds
24 appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the
25 provision of a particular service is commonly covered by private health insurance plans. However, a recipient who
26 is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq.,
27 or is less than 21 years of age is entitled to full medicaid coverage.
- 28 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
29 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
30 and coinsurance for persons not otherwise eligible for medicaid.

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

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

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

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

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

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

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

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

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

23

24 **Section 2.** Section 53-6-113, MCA, is amended to read:

25 **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary for
26 the administration of the Montana medicaid program as provided for in this part and that may be required by
27 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,
28 42 U.S.C. 1396, et seq., as amended.

29 (2) The department shall adopt rules that are necessary to further define for the purposes of this part the
30 services provided under 53-6-101 and to provide that services being used are medically necessary and that the

1 services are the most efficient and cost-effective available. The rules may establish the amount, scope, and
2 duration of services provided under the Montana medicaid program, including the items and components
3 constituting the services.

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

8 (a) the availability of appropriated funds;

9 (b) the actual cost of services;

10 (c) the quality of services;

11 (d) the professional knowledge and skills necessary for the delivery of services; and

12 (e) the availability of services.

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

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

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

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

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

29 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
30 in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or

1 if funds appropriated are not sufficient to provide medical care for all eligible persons.

2 (8) The department may adopt rules establishing criteria for assessing the risk of adverse outcomes for
3 pregnant women planning a home birth. The rules may establish medical conditions or circumstances that are
4 not eligible for home birth because they present a high risk of adverse outcomes.

5 ~~(8)~~(9) 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)~~(10) 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 duration
15 of assistance, may consider the amount of funds appropriated by the legislature.

16 ~~(10)~~(11) Unless required by federal law or regulation, the department may not adopt rules that exclude
17 a 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."

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20 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2019.

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