

Regular Session, 2013

SENATE BILL NO. 125

BY SENATOR PETERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MEDICAID. Provides for the Louisiana Health Care Independence Program and requires reporting of the program outcomes. (gov sig)

1 AN ACT

2 To enact Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 46:979.1 through 979.6, relative to the medical assistance program; to

4 provide for eligibility for benefits of the medical assistance program; to require state

5 participation in the medical assistance program expansion provided in federal law;

6 to provide for definitions; to provide for legislative findings and intent; to provide

7 for reform of the Medicaid program in Louisiana; to provide for termination; and to

8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950,

11 comprised of R.S. 46:979.1 through 979.6, is hereby enacted to read as follows:

12 **CHAPTER 8-B. LOUISIANA HEALTH CARE INDEPENDENCE PROGRAM**

13 **§979.1. Title**

14 **This Chapter shall be known and may be cited as the "Louisiana Health**

15 **Care Independence Act".**

16 **§979.2. Definitions**

17 **As used in this Chapter, the following terms shall have the following**

1 **definitions, unless the context clearly indicates otherwise:**

2 **(1) "ACA" and "Affordable Care Act" mean the following acts of**
3 **Congress, collectively:**

4 **(a) The Patient Protection and Affordable Care Act, which originated**
5 **as H.R. 3590 in the One Hundred Eleventh United States Congress and became**
6 **Public Law 111-148.**

7 **(b) The Health Care and Education Reconciliation Act, which originated**
8 **as H.R. 4872 in the One Hundred Eleventh United States Congress and became**
9 **Public Law 111-152.**

10 **(2) "Department" means the Department of Health and Hospitals.**

11 **(3) "Medicaid" and "medical assistance program" mean the medical**
12 **assistance program provided for in Title XIX of the Social Security Act.**

13 **(4) "Secretary" means the secretary of the Department of Health and**
14 **Hospitals.**

15 **(5) "Health insurance marketplace" means the federal vehicle created**
16 **to help individuals, families, and small businesses shop for and select health**
17 **insurance coverage in a way that permits comparison of available qualified**
18 **health plans based upon price, benefits, services, and quality, regardless of the**
19 **governance structure of the marketplace.**

20 **(6) "Premium" means a charge that must be paid as a condition of**
21 **enrolling in health care coverage.**

22 **(7) "Program" means the Louisiana Health Care Independence Program**
23 **established by this Chapter.**

24 **(8) "Qualified health plan" means a federally certified individual health**
25 **insurance plan offered by a carrier through the federal Health Insurance**
26 **Marketplace.**

27 **(9) "Independence account" means individual financing structures that**
28 **operate similar to a health savings account or a medical savings account.**

29 **(10) "Cost sharing" means the portion of the cost of a covered medical**

1 service that must be paid by or on behalf of eligible individuals, consisting of
2 copayments or coinsurance, but not deductibles.

3 §979.3. Legislative findings; purpose

4 A. The Legislature of Louisiana does hereby find and declare the
5 following:

6 (1) The Affordable Care Act, referred to hereafter in this Chapter as the
7 "ACA", sets forth health and policy reforms which reshape the way virtually
8 all Americans will receive and finance their healthcare.

9 (2) In a decision announced on June 28, 2012, the Supreme Court of the
10 United States, in *National Federation of Independent Business, et al. v. Sebelius,*
11 *Secretary of Health and Human Services, et al.* upheld the overall
12 constitutionality of the ACA; but in the same ruling, a majority of the court held
13 that the mandatory expansion of Medicaid eligibility as provided in the ACA is
14 unconstitutionally coercive of states, thereby making participation in the
15 Medicaid expansion a voluntary proposition for each state.

16 (3) At twenty-five percent of the federal poverty level, or just under
17 eight thousand dollars in annual income for a family of four presently, the
18 income eligibility threshold of this state for Medicaid benefits for parents of
19 Medicaid-eligible children is the second-lowest in the nation.

20 (4) The legislature declares that due to compelling moral and economic
21 reasons, participation in the expansion of Medicaid eligibility as provided in the
22 ACA is in the best interest of this state.

23 B. The purposes of this state in expanding Medicaid eligibility to
24 conform to the standards provided in the ACA, as required by this Chapter, are
25 as follows:

26 (1) To maximize the number of Louisianians who are covered by some
27 form of health insurance.

28 (2) To provide basic health coverage to the working poor of the state
29 who are not offered insurance through their employer and do not earn enough

1 money to meet basic family needs and pay for private health insurance.

2 (3) To assure health care providers who serve low to moderate income
3 persons of some amount of compensation for the care they provide, as the ACA
4 provides for a dramatic reduction in funding to federal programs which
5 currently finance care for the uninsured as a means of financing the Medicaid
6 expansion.

7 (4) To avert the economic and human costs of crises in both access to
8 health care and health services financing which are likely to result from not
9 participating in an expansion of a major federal program while other sources
10 of financing for medical care for the uninsured and the indigent are being
11 drastically reduced or eliminated.

12 §979.4. Expansion of Medicaid eligibility in Louisiana; administration of the
13 Louisiana Health Care Independence Program by the
14 Department of Health and Hospitals

15 A. The Department of Health and Hospitals shall create and administer
16 the Louisiana Health Care Independence Program within the department.
17 After receiving the approval of the Senate and House Committees on Health
18 and Welfare, the department shall on or before September 1, 2013, submit and
19 apply for all of the following:

20 (1) Federal waivers necessary to implement the program in a manner
21 consistent with this Chapter, including without limitation approval for a
22 comprehensive waiver under Section 1115 of the Social Security Act, 42 U.S.C.
23 1315.

24 (2) Medicaid state plan amendments necessary to implement the
25 program in a manner consistent with this Chapter.

26 (3) Those Medicaid state plan amendments that are optional and
27 therefore may be revoked by the state at its discretion.

28 B.(1) As part of its actions the department shall confirm that employers
29 shall not be subject to the penalties, including without limitation an assessable

1 payment, under Section 1513 of Pub. L. No. 111-148, as existing on January 1,
2 2013, concerning shared responsibility, for employees who are eligible
3 individuals if the employees meet either of the following criteria:

4 (a) Are enrolled in the program.

5 (b) Enroll in a qualified health plan through the federal health insurance
6 marketplace.

7 (2) If the department is unable to confirm provisions under this Section,
8 the program shall not be implemented.

9 C.(1) Implementation of the program shall be conditioned upon the
10 receipt of necessary federal approvals.

11 (2) If the department does not receive the necessary federal approvals,
12 the program shall not be implemented.

13 D. The program shall include premium assistance for eligible individuals
14 to enable their enrollment in a qualified health plan through the federal health
15 insurance marketplace.

16 E.(1) The department shall be specifically authorized to pay premiums
17 and supplemental cost-sharing subsidies directly to the federally qualified
18 health plans for enrolled eligible individuals.

19 (2) The intent of the payments under this Subsection is to increase
20 participation in the health insurance market, intensify price pressures, and
21 reduce costs for both publicly and privately funded health care.

22 F. The department shall accomplish the following to the extent allowable
23 by law:

24 (1) The department shall pursue strategies that promote insurance
25 coverage of children in their parents' or caregivers' plan, including children
26 eligible for the LaCHIP, the Louisiana Children's Health Insurance Program.

27 (2) The department shall develop and implement a strategy to inform
28 Medicaid recipient populations whose needs would be reduced or better served
29 through participation in the federal health insurance marketplace.

1 **G. The program authorized under this Chapter shall terminate within**
2 **one hundred twenty days after a reduction in any of the following federal**
3 **medical assistance percentages:**

4 **(1) One hundred percent in 2014, 2015, or 2016.**

5 **(2) Ninety-five percent in 2017.**

6 **(3) Ninety-four percent in 2018.**

7 **(4) Ninety-three percent in 2019.**

8 **(5) Ninety percent in 2020 or any year after 2020.**

9 **H. An eligible individual enrolled in the program shall affirmatively**
10 **acknowledge the existence of all of the following facts:**

11 **(1) The program shall not be a perpetual federal or state right or a**
12 **guaranteed entitlement.**

13 **(2) The program shall be subject to cancellation upon appropriate notice.**

14 **(3) The program shall not be an entitlement program.**

15 **I.(1) The department shall develop a model and seek from the Center for**
16 **Medicare and Medicaid Services all necessary waivers and approvals to allow**
17 **nonaged, nondisabled program-eligible participants to enroll in a program that**
18 **shall create and utilize independence accounts that operate similar to a health**
19 **savings account or medical savings account during the calendar year 2015.**

20 **(2) The independence accounts shall accomplish both of the following:**

21 **(a) Allow a participant to purchase cost-effective high-deductible health**
22 **insurance.**

23 **(b) Promote independence and self-sufficiency.**

24 **(3) The state shall implement cost sharing and copays and, as a condition**
25 **of participation, earnings shall exceed fifty percent of the applicable federal**
26 **poverty level.**

27 **(4) Participants may receive rewards based on healthy living and self-**
28 **sufficiency.**

29 **(5)(a) At the end of each fiscal year, if there are funds remaining in the**

1 account, a majority of the state's contribution shall remain in the participant's
2 control as a positive incentive for the responsible use of the health care system
3 and personal responsibility of health maintenance.

4 (b) Uses of the funds may include, without limitation, rolling the funds
5 into a private sector health savings account for the participant according to
6 rules promulgated by the department.

7 (c) The department shall promulgate rules to implement this Section in
8 accordance with the Administrative Procedure Act. State obligations for
9 uncompensated care shall be projected, tracked, and reported to identify
10 potential incremental future decreases.

11 (d) The department shall recommend appropriate adjustments in
12 funding to the legislature.

13 (e) Adjustments shall be made by the legislature as appropriate.

14 J. On a quarterly basis, the department shall report to the Joint
15 Legislative Committee on the Budget, within two weeks of the end of each
16 quarter, information regarding the following aspects of the program:

17 (1) Program enrollment.

18 (2) Patient experience.

19 (3) Economic impact including enrollment distribution.

20 (4) Carrier competition.

21 (5) Success in avoiding uncompensated care.

22 §979.5. Medicaid program outcomes; reporting requirements

23 A. On or before July 1, 2014, and annually thereafter, the secretary of
24 the department shall provide to the House and Senate committees on health and
25 welfare and to the governor a written report covering the most recent one-year
26 period which includes at minimum all of the items required hereafter in this
27 Section.

28 B. The secretary shall make the report provided for in this Section
29 publicly available on its Internet website.

1 **C. The report shall include but shall not be limited to the following**
2 **items:**

3 **(1) Evaluation of overall health outcomes and quality of care for**
4 **Medicaid enrollees of this state and recommendations for policy changes to**
5 **improve such outcomes and quality of care. Measurements on which the**
6 **secretary shall base the evaluation provided for in this Paragraph shall be**
7 **derived from a metric which is generally accepted by public and private health**
8 **care providers such as the Healthcare Effectiveness Data and Information Set**
9 **(HEDIS).**

10 **(2) Evaluation of major barriers to access to health care by Medicaid**
11 **enrollees of this state and recommendations for policy changes to eliminate such**
12 **barriers.**

13 **(3) Summary of successful initiatives in this state for disease prevention**
14 **and early diagnosis and management of chronic conditions among Medicaid**
15 **enrollees of this state.**

16 **(4) Trends in enrollment of health care providers in the Medicaid**
17 **program of this state during the period covered by the report.**

18 **(5) Major challenges faced by health care providers enrolled in the**
19 **Medicaid program of this state and recommendations for policy changes to**
20 **address such challenges.**

21 **(6) Impacts on health outcomes and health care costs in the state during**
22 **the period covered by the report which resulted from participation by health**
23 **care providers enrolled in the Medicaid program in any federal or state**
24 **initiatives for coordinated care or patient-centered medical homes.**

25 **(7) Such other information as the secretary deems appropriate to convey**
26 **a clear and sufficiently complete assessment of the impact of the Medicaid**
27 **program in this state.**

28 **§979.6. Termination**

29 **The provisions of this Chapter shall terminate and become null and void**

1 **on and after July 1, 2017.**

2 Section 2. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 effective on the day following such approval.

The original instrument was prepared by Mary Dozier O'Brien. The following digest, which does not constitute a part of the legislative instrument, was prepared by Christopher D. Adams.

DIGEST

Peterson (SB 125)

Proposed law provides the Department of Health and Hospitals create and administer the Louisiana Health Care Independence Program within the department.

Proposed law declares that the purposes of the state in expanding Medicaid eligibility as provided in proposed law are as follows:

- (1) To maximize the number of Louisianians who are covered by some form of health insurance.
- (2) To provide basic health coverage to the working poor of the state who are not offered insurance through their employer and do not earn enough money to meet basic family needs and pay for private health insurance.
- (3) To assure health care providers who serve low to moderate income persons of some amount of compensation for the care they provide.
- (4) To avert the economic and human costs of crises in both access to health care and health services financing which are likely to result from not participating in an expansion of a major federal program while other sources of financing for medical care for the uninsured and the indigent are being drastically reduced or eliminated.

Proposed law provides that after receiving the approval of the Senate and House committees on health and welfare, the department shall on or before September 1, 2013, submit and apply for all of the following:

- (1) Federal waivers necessary to implement the program in a manner consistent with proposed law, including without limitation approval for a comprehensive waiver under Section 1115 of the Social Security Act.
- (2) Medicaid state plan amendments necessary to implement the program in a manner consistent with proposed law.
- (3) Those Medicaid state plan amendments that are optional and therefore may be revoked by the state at its discretion.

Proposed law provides the department shall confirm that employers shall not be subject to the penalties, including without limitation an assessable payment, under Section 1513 of

Pub. L. No. 111-148, as existing on January 1, 2013, concerning shared responsibility, for employees who are eligible individuals if the employees meet either of the following criteria.

- (1) Are enrolled in the program.
- (2) Enroll in a qualified health plan through the federal health insurance marketplace.

Proposed law further provides if the department is unable to confirm provisions under the proposed law, the program shall not be implemented.

Proposed law provides the implementation of the program shall be conditioned upon the receipt of necessary federal approvals, and if the department does not receive the necessary federal approvals, the program shall not be implemented.

Proposed law provides the program shall include premium assistance for eligible individuals to enable their enrollment in a qualified health plan through the federal health insurance marketplace.

Proposed law provides the department shall be specifically authorized to pay premiums and supplemental cost-sharing subsidies directly to the federally qualified health plans for enrolled eligible individuals.

Proposed law provides the department shall pursue strategies that promote insurance coverage of children in their parents' or caregivers' plan, including children eligible for the LaCHIP.

Proposed law further provides the department shall develop and implement a strategy to inform Medicaid recipient populations whose needs would be reduced or better served through participation in the federal health insurance marketplace.

Proposed law provides the program shall terminate within 120 days after a reduction in any of the following federal medical assistance percentages:

- (1) 100% in 2014, 2015, or 2016.
- (2) 95% in 2017.
- (3) 94% in 2018.
- (4) 93% in 2019.
- (5) 90% in 2020 or any year after 2020.

Proposed law provides an eligible individual enrolled in the program shall affirmatively acknowledge the existence all of the following facts:

- (1) The program shall not be a perpetual federal or state right or a guaranteed entitlement.
- (2) The program shall be subject to cancellation upon appropriate notice.
- (3) The program shall not be an entitlement program.

Proposed law provides the department shall develop a model and seek from the Center for Medicare and Medicaid Services all necessary waivers and approvals to allow non-aged, non-disabled program-eligible participants to enroll in a program that shall create and utilize independence accounts that operate similar to a health savings account or medical savings account during the calendar year 2015.

Proposed law provides the independence accounts shall accomplish both of the following:

- (1) Allow a participant to purchase cost-effective high-deductible health insurance.
- (2) Promote independence and self-sufficiency.

Proposed law provides the state shall implement cost sharing and co-pays and, as a condition of participation, earnings shall exceed fifty percent of the applicable federal poverty level.

Proposed law provides participants may receive rewards based on healthy living and self-sufficiency.

Proposed law provides that at the end of each fiscal year, if there are funds remaining in the account, a majority of the state's contribution shall remain in the participant's control as a positive incentive for the responsible use of the health care system and personal responsibility of health maintenance.

Proposed law provides that on a quarterly basis, the department shall report to the Joint Legislative Committee on the Budget, within two weeks of the end of each quarter, information regarding the following aspects of the program:

- (1) Program enrollment.
- (2) Patient experience.
- (3) Economic impact including enrollment distribution.
- (4) Carrier competition.
- (5) Success in avoiding uncompensated care.

Proposed law requires that on or before July 1, 2014, and annually thereafter, the secretary of DHH shall provide to the legislative committees on health and welfare and the governor a written report covering the most recent one-year period which includes at minimum all of the following items:

- (1) Evaluation of overall health outcomes and quality of care for La. Medicaid enrollees, and recommendations for policy changes to improve such outcomes and quality of care. Requires that the secretary base such evaluation on measurements derived from a metric which is generally accepted by public and private health care providers such as the Healthcare Effectiveness Data and Information Set (HEDIS).
- (2) Evaluation of major barriers to access to health care by La. Medicaid enrollees and recommendations for policy changes to eliminate such barriers.
- (3) Summary of successful initiatives in La. for disease prevention and early diagnosis and management of chronic conditions among Medicaid enrollees.
- (4) Trends in enrollment of health care providers in the La. Medicaid program during the period covered by the report.
- (5) Major challenges faced by health care providers enrolled in the La. Medicaid program and recommendations for policy changes to address such challenges.
- (6) Impacts on health outcomes and health care costs in La. during the period covered by the report which resulted from participation by health care providers enrolled in the Medicaid program in any federal or state initiatives for coordinated care or patient-centered medical homes.

- (7) Such other information as the secretary deems appropriate to convey a clear and sufficiently complete assessment of the impact of the Medicaid program in La.

Proposed law requires DHH to make such report publicly available on its website.

Proposed law provides for a termination date of July 1, 2017.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 46:979.1-979.6)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Provides for the Louisiana Health Care Independence Program.
2. Provides a program termination date of July 1, 2017.