

1 HOUSE BILL NO. 676

2 INTRODUCED BY J. GILLETTE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE MEDICAID
5 AND CHILDREN'S HEALTH INSURANCE PROGRAMS; ESTABLISHING ELIGIBILITY VERIFICATION
6 PROCEDURES AND REQUIREMENTS; PROHIBITING CONTINUOUS ELIGIBILITY FOR THE MEDICAID
7 EXPANSION PROGRAM AND EXTENDED ELIGIBILITY FOR THE 1931 MEDICAID PROGRAM; REVISING
8 COPAYMENT REQUIREMENTS FOR THE CHILDREN'S HEALTH INSURANCE PROGRAM; REQUIRING
9 CONSIDERATION OF ADMINISTRATIVE EXPENSE REDUCTIONS BEFORE MAKING REDUCTIONS TO
10 SERVICES IN MEDICAL ASSISTANCE PROGRAMS; PROVIDING DEFINITIONS; AMENDING SECTIONS
11 15-30-2618, 15-31-511, 53-2-215, 53-2-613, 53-4-1002, 53-4-1003, 53-4-1004, 53-4-1008, 53-4-1115, 53-6-
12 101, 53-6-131, 53-6-133, 53-6-134, AND 53-6-1304, MCA; AMENDING SECTION 48, CHAPTER 415, LAWS
13 OF 2019; AND PROVIDING EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **Section 1.** Section 15-30-2618, MCA, is amended to read:

18 **"15-30-2618. (Temporary) Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-
19 106, 17-7-111, and subsections (7) through (9) of this section, in accordance with a proper judicial order, or as
20 otherwise provided by law, it is unlawful to divulge or make known in any manner:

21 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
22 return required under this chapter or any other information secured in the administration of this chapter; or

23 (b) any federal return or federal return information disclosed on any return or report required by rule of
24 the department or under this chapter.

25 (2) (a) The officers charged with the custody of the reports and returns may not be required to
26 produce them or evidence of anything contained in them in an action or proceeding in a court, except in an
27 action or proceeding:

28 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

1 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
2 when the reports or facts shown by the reports are directly involved in the action or proceedings.

3 (b) The court may require the production of and may admit in evidence only as much of the reports or
4 of the facts shown by the reports as are pertinent to the action or proceedings.

5 (3) This section does not prohibit:

6 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any
7 return or report filed in connection with the taxpayer's tax;

8 (b) the publication of statistics classified to prevent the identification of particular reports or returns
9 and the items of particular reports or returns; or

10 (c) the inspection by the attorney general or other legal representative of the state of the report or
11 return of any taxpayer who brings an action to set aside or review the tax based on the report or return or
12 against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

13 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to
14 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing
15 separately on the same return. The information being provided to the spouse or reported on the return,
16 including subsequent adjustments or amendments to the return, must be treated in the same manner as if the
17 spouse and the taxpayer filed the return using a joint filing status for that tax year.

18 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the
19 department orders them to be destroyed.

20 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the
21 offender is an officer or employee of the state, the offender must be dismissed from office or employment and
22 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the
23 case of a former officer or employee, for 1 year after conviction.

24 (7) This section may not be construed to prohibit the department from providing taxpayer return
25 information and information from employers' payroll withholding reports to:

26 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
27 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws;

28 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,

1 and abuse under the workers' compensation program; or

2 (c) the department of public health and human services to verify, ~~as required under 53-6-133,~~ the
3 income reported by applicants for medical assistance under the children's health insurance program provided
4 for in Title 53, chapter 4, part 10, and the medicaid program provided for in Title 53, chapter 6, part 1.

5 (8) The department may permit the commissioner of internal revenue of the United States or the
6 proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of
7 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
8 representative an abstract of the return of income of any individual or supply the officer with information
9 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
10 or return of income of an individual, but the permission may be granted or information furnished only if the
11 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of
12 this state charged with the administration of this chapter.

13 (9) On written request to the director or a designee of the director, the department shall furnish:

14 (a) to the department of justice all information necessary to identify those persons qualifying for the
15 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of
16 justice to administer the provisions of 61-5-105;

17 (b) to the department of public health and human services information acquired under 15-30-2616,
18 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
19 assistance fraud and abuse, provided notice to the applicant has been given;

20 (c) to the department of labor and industry:

21 (i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under
22 the unemployment compensation and workers' compensation programs, information on whether a taxpayer
23 who is the subject of an ongoing investigation by the department of labor and industry is an employee, an
24 independent contractor, or self-employed; and

25 (ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer
26 and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;

27 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
28 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and

1 fishing licenses;

2 (e) to the board of regents information required under 20-26-1111;

3 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
4 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
5 and program planning must be the same as the information provided to the legislative fiscal analyst.

6 (g) to the department of transportation farm income information based on the most recent income tax
7 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has
8 been given as provided in 15-70-430. The information obtained by the department of transportation is subject to
9 the same restrictions on disclosure as are individual income tax returns.

10 (h) to the department of commerce tax information about a taxpayer whose debt is assigned to the
11 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
12 information provided to the department of commerce must be used for the purposes of preventing and detecting
13 fraud or abuse and determining eligibility for grants or loans.

14 (i) to the superintendent of public instruction information required under 20-9-905. (~~Terminates June~~
15 ~~30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019; subsection Subsection (9)(i) terminates~~
16 ~~December 31, 2023--sec. 33, Ch. 457, L. 2015.)~~)

17 ~~**15-30-2618. (Effective July 1, 2025, on occurrence of contingency) Confidentiality of tax**~~
18 ~~**records.**(1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in~~
19 ~~accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known~~
20 ~~in any manner:~~

21 ~~(a) the amount of income or any particulars set forth or disclosed in any individual report or individual~~
22 ~~return required under this chapter or any other information secured in the administration of this chapter; or~~

23 ~~(b) any federal return or federal return information disclosed on any return or report required by rule of~~
24 ~~the department or under this chapter.~~

25 ~~(2) (a) The officers charged with the custody of the reports and returns may not be required to~~
26 ~~produce them or evidence of anything contained in them in an action or proceeding in a court, except in an~~
27 ~~action or proceeding:~~

28 ~~(i) to which the department is a party under the provisions of this chapter or any other taxing act; or~~

1 (ii) ~~on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes~~
2 ~~when the reports or facts shown by the reports are directly involved in the action or proceedings.~~

3 (b) ~~The court may require the production of and may admit in evidence only as much of the reports or~~
4 ~~of the facts shown by the reports as are pertinent to the action or proceedings.~~

5 (3) ~~This section does not prohibit:~~

6 (a) ~~the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any~~
7 ~~return or report filed in connection with the taxpayer's tax;~~

8 (b) ~~the publication of statistics classified to prevent the identification of particular reports or returns~~
9 ~~and the items of particular reports or returns; or~~

10 (c) ~~the inspection by the attorney general or other legal representative of the state of the report or~~
11 ~~return of any taxpayer who brings an action to set aside or review the tax based on the report or return or~~
12 ~~against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.~~

13 (4) ~~The department may deliver to a taxpayer's spouse the taxpayer's return or information related to~~
14 ~~the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing~~
15 ~~separately on the same return. The information being provided to the spouse or reported on the return,~~
16 ~~including subsequent adjustments or amendments to the return, must be treated in the same manner as if the~~
17 ~~spouse and the taxpayer filed the return using a joint filing status for that tax year.~~

18 (5) ~~Reports and returns must be preserved for at least 3 years and may be preserved until the~~
19 ~~department orders them to be destroyed.~~

20 (6) ~~Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the~~
21 ~~offender is an officer or employee of the state, the offender must be dismissed from office or employment and~~
22 ~~may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the~~
23 ~~case of a former officer or employee, for 1 year after conviction.~~

24 (7) ~~This section may not be construed to prohibit the department from providing taxpayer return~~
25 ~~information and information from employers' payroll withholding reports to:~~

26 (a) ~~the department of labor and industry to be used for the purpose of investigation and prevention of~~
27 ~~noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or~~

28 (b) ~~the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,~~

1 and abuse under the workers' compensation program.

2 (8) ~~The department may permit the commissioner of internal revenue of the United States or the~~
3 ~~proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of~~
4 ~~either officer to inspect the return of income of any individual or may furnish to the officer or an authorized~~
5 ~~representative an abstract of the return of income of any individual or supply the officer with information~~
6 ~~concerning an item of income contained in a return or disclosed by the report of an investigation of the income~~
7 ~~or return of income of an individual, but the permission may be granted or information furnished only if the~~
8 ~~statutes of the United States or of the other state grant substantially similar privileges to the proper officer of~~
9 ~~this state charged with the administration of this chapter.~~

10 (9) ~~On written request to the director or a designee of the director, the department shall furnish:~~

11 (a) ~~to the department of justice all information necessary to identify those persons qualifying for the~~
12 ~~additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of~~
13 ~~justice to administer the provisions of 61-5-105;~~

14 (b) ~~to the department of public health and human services information acquired under 15-30-2616,~~
15 ~~pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public~~
16 ~~assistance fraud and abuse, provided notice to the applicant has been given;~~

17 (c) ~~to the department of labor and industry:~~

18 (i) ~~for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under~~
19 ~~the unemployment compensation and workers' compensation programs, information on whether a taxpayer~~
20 ~~who is the subject of an ongoing investigation by the department of labor and industry is an employee, an~~
21 ~~independent contractor, or self-employed; and~~

22 (ii) ~~for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer and~~
23 ~~apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;~~

24 (d) ~~to the department of fish, wildlife, and parks specific information that is available from income tax~~
25 ~~returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and~~
26 ~~fishing licenses;~~

27 (e) ~~to the board of regents information required under 20-26-1111;~~

28 (f) ~~to the legislative fiscal analyst and the office of budget and program planning individual income tax~~

1 information as provided in ~~5-12-303, 15-1-106, and 17-7-111~~. The information provided to the office of budget
2 and program planning must be the same as the information provided to the legislative fiscal analyst.

3 ~~(g) to the department of transportation farm income information based on the most recent income tax~~
4 ~~return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been~~
5 ~~given as provided in 15-70-430. The information obtained by the department of transportation is subject to the~~
6 ~~same restrictions on disclosure as are individual income tax returns.~~

7 ~~(h) to the department of commerce tax information about a taxpayer whose debt is assigned to the~~
8 ~~department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The~~
9 ~~information provided to the department of commerce must be used for the purposes of preventing and detecting~~
10 ~~fraud or abuse and determining eligibility for grants or loans.~~

11 ~~(i) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(i)~~
12 ~~terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"~~

13

14 **Section 2.** Section 15-31-511, MCA, is amended to read:

15 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with
16 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

17 (a) the amount of income or any particulars set forth or disclosed in any return or report required
18 under this chapter or any other information relating to taxation secured in the administration of this chapter; or

19 (b) any federal return or information in or disclosed on a federal return or report required by law or
20 rule of the department under this chapter.

21 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter
22 may not be ordered to produce any of them or evidence of anything contained in them in any administrative
23 proceeding or action or proceeding in any court, except:

24 (i) in an action or proceeding in which the department is a party under the provisions of this chapter;
25 or

26 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions
27 of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or
28 proceeding.

1 (b) If the production of a return, report, or information contained in them is ordered, the court shall
2 limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent
3 to the action or proceeding.

4 (3) This section does not prohibit:

5 (a) the delivery of a certified copy of any return or report filed in connection with a return to the
6 taxpayer who filed the return or report or to the taxpayer's authorized representative;

7 (b) the publication of statistics prepared in a manner that prevents the identification of particular
8 returns, reports, or items from returns or reports;

9 (c) the inspection of returns and reports by the attorney general or other legal representative of the
10 state in the course of an administrative proceeding or litigation under this chapter;

11 (d) access to information under subsection (4);

12 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
13 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
14 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
15 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by
16 an investigation of the income or return of a corporation. The director of revenue may not furnish that
17 information to a person representing the United States or another state unless the United States or the other
18 state grants substantially similar privileges to an officer of this state charged with the administration of this
19 chapter.

20 (4) On written request to the director or a designee of the director, the department shall:

21 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished
22 to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in
23 subsection (1);

24 (b) provide corporate income tax and alternative corporate income tax information, including any
25 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
26 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.
27 The information furnished to the legislative fiscal analyst and the office of budget and program planning is
28 subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

1 (c) provide to the department of commerce tax information about a taxpayer whose debt is assigned
 2 to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
 3 information provided to the department of commerce must be used for the purposes of preventing and detecting
 4 fraud or abuse and determining eligibility for grants or loans.

5 (d) furnish to the superintendent of public instruction information required under 20-9-905;

6 (e) exchange with the department of labor and industry taxpayer and apprentice information
 7 necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

8 (f) provide the department of public health and human services with the information necessary to
 9 verify, ~~as required under 53-6-133,~~ the income reported by an applicant for medical assistance under the
 10 children's health insurance program provided for in Title 53, chapter 4, part 10, or the medicaid program
 11 provided for in Title 53, chapter 6, part 1.

12 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
 13 public employee is convicted of violating this section, the person is dismissed from office or employment and
 14 may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the
 15 case of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,
 16 2023--sec. 33, Ch. 457, L. 2015; ~~subsection (4)(f) terminates June 30, 2025, on occurrence of contingency--~~
 17 ~~sec. 48, Ch. 415, L. 2019.)"~~

18

19 **Section 3.** Section 53-2-215, MCA, is amended to read:

20 **"53-2-215. Social Security Act section 1115 waiver.** (1) The department may pursue approval from
 21 the U.S. department of health and human services for implementation in Montana of a health insurance
 22 flexibility and accountability demonstration initiative and other demonstration projects through section 1115
 23 waivers, within the limitations established in this section.

24 (2) The department may implement a demonstration project upon approval of a section 1115 waiver
 25 by the U.S. department of health and human services. The department may:

26 (a) coordinate a demonstration project with a program approved through a section 1915 waiver; or

27 (b) terminate and subsume in a new section 1115 waiver an existing managed care or access
 28 program approved through a section 1915(b) waiver, an optional state plan medicaid service authorized under

1 53-6-101, an optional state plan eligibility group authorized under 53-6-131, or an existing program approved by
2 a section 1115 waiver that is administered by the department.

3 (3) The department may initiate and administer section 1115 waivers to more efficiently apply
4 available state general fund money, other available state and local public and private funding, and federal
5 money to the development and maintenance of medicaid-funded programs of health services and of other
6 public assistance services and to structure those programs or services for more efficient and effective delivery
7 to specific populations.

8 (4) (a) In establishing programs or services in a demonstration project approved through a section
9 1115 waiver, the department shall administer the expenditures under each demonstration project within the
10 state spending authority that is available for that demonstration project. The department may limit enrollments
11 in each program within a demonstration project, reduce the per capita expenditures available to enrollees, and
12 modify and reduce the types and amounts of services available through each program when the department
13 determines that expenditures can be reasonably expected to exceed the available state spending authority.

14 (b) The department shall develop a contingency plan if there is a spending cap as a condition of the
15 waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs,
16 services, or eligibility groups.

17 (5) The department may coordinate the state children's health insurance program authorized under
18 Title 53, chapter 4, part 10, with a section 1115 waiver for the purpose of increasing the state funding match
19 available under the waiver and expanding the number of participants in the state children's health insurance
20 program.

21 (6) The department, subject to the terms and conditions of the section 1115 waiver:

22 (a) shall establish the eligibility groups based upon the funding principles stated in 53-6-101(2);

23 (b) may provide medicaid coverage for one or more optional medicaid eligibility groups;

24 (c) may provide medicaid coverage for one or more specific populations of persons who are not within
25 the federally authorized medicaid eligibility groups but who are within the requirements of subsection ~~(7)~~(8);

26 (d) may establish the service coverage, eligibility requirements, financial participation requirements,
27 and other features for the administration and delivery of services to each section 1115 waiver eligibility group;

28 (e) shall set limits on the number of participants for each section 1115 waiver eligibility group;

1 (f) shall set limits on the total expenditures under each demonstration project; and

2 (g) shall set the limits on the total expenditures on the services to be provided to each section 1115
3 waiver eligibility group.

4 (7) The department may not implement 12-month continuous eligibility through a section 1115 waiver
5 for individuals who are eligible for medical assistance pursuant to 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

6 ~~(7)(8)~~ The categories of persons that the department may consider for establishment as a section
7 1115 waiver eligibility group include but are not limited to:

8 (a) low-income parents of children who are eligible to participate in medicaid under 53-6-131 or in the
9 state children's health insurance program authorized under Title 53, chapter 4, part 10;

10 (b) children who because of limits on enrollment may not be covered through the state children's
11 health insurance program authorized under Title 53, chapter 4, part 10;

12 (c) children who are eligible to participate in the state children's health insurance program authorized
13 under Title 53, chapter 4, part 10; and

14 (d) other specific groups of persons who are participants in programs or services funded solely or
15 primarily through state general funds or who the department determines are in need of specific types of health
16 care and related services, such as prescription drugs, reproductive health care, and mental health services, and
17 are without adequate financial means to procure health insurance coverage of those needs.

18 ~~(8)(9)~~ Children participating in a section 1115 waiver eligibility group or children who would be eligible
19 to participate in the state children's health insurance program are subject to the eligibility criteria applicable
20 under 53-4-1004, except as provided in subsection ~~(9)~~ (10) of this section, for participation in the state
21 children's health insurance program and must receive benefits as provided through the state children's health
22 insurance program under 53-4-1005.

23 ~~(9)(10)~~ (a) Except as provided in this subsection ~~(9)~~ (10), the eligibility for the section 1115 waiver
24 eligibility groups may not exceed 150% of the federal poverty level.

25 (b) The department may establish eligibility at greater than 150% but no more than 200% of the
26 federal poverty level for any of the following groups established for purposes of a section 1115 waiver:

27 (i) participants in the state children's health insurance program;

28 (ii) participants in a group that may be covered under the state children's health insurance program;

1 (iii) participants in a family planning program;

2 (iv) participants in a group composed of persons previously served through a program funded with
3 state general fund money and other nonmedicaid money; or

4 (v) participants in a group composed of persons with a significant need for particular services that are
5 not readily available to that population through insurance products or because of personal financial limitations.

6 (c) In establishing the eligibility criteria based upon federal poverty levels, the department shall select
7 levels to ensure that the resulting expenditures will remain within the available funding and will conform with the
8 terms and conditions of approval by the U.S. department of health and human services.

9 (d) The department may adopt additional programmatic and financial eligibility criteria for a section
10 1115 waiver eligibility group in order to appropriately define the subject population, to limit use for fiscal and
11 programmatic purposes, to prevent improper use, and to conform the administration of the program with the
12 terms and conditions of the section 1115 waiver.

13 (e) Eligibility criteria applicable to a section 1115 waiver eligibility group need not conform to the
14 criteria applicable to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not
15 encompassed within the demonstration project.

16 ~~(40)(11)~~ (a) For each section 1115 waiver eligibility group, the department shall establish the program
17 benefit or benefits to be available to the participants in the group.

18 (b) Program benefits may be in the form of:

19 (i) assistance in the payment of health insurance premiums for health care coverage through an
20 employer or other existing group coverage available to the program enrollee;

21 (ii) assistance in the payment of health insurance premiums for health care coverage that meets a set
22 of defined standards and limitations adopted by the department in consultation with the commissioner of
23 insurance and obtained from participating private insurers or through self-insured pools;

24 (iii) premium purchase for insurance coverage on behalf of children who are 18 years of age or
25 younger for the defined set of health care and related services adopted by the department for the state
26 children's health insurance program authorized in Title 53, chapter 4, part 10; or

27 (iv) coverage of a defined set of health care and related services administered directly by the
28 department on a fee-for-service basis.

1 (c) The department may limit the types of program benefits available to enrollees in a program. For
2 programs in which the department provides for more than one type of program benefit, the department may
3 require that enrollees, either as a whole or on an individual basis based on certain circumstances, use certain
4 types of program benefits in lieu of using other types of program benefits.

5 (d) The department shall, as necessary to maintain expenditures for a program within the available
6 funding for that program, set monetary limitations on the total benefit amounts available on a periodic basis for
7 an enrollee through that program, whether that benefit is in the form of premium assistance, premium purchase,
8 or a set of covered services.

9 ~~(11)~~(12) The benefits for a section 1115 waiver eligibility group may be in the form of a defined set of
10 covered services consisting of one or more of the mandatory and optional medicaid state plan services
11 specified in 53-6-101 or other health-care related services. The department may select the types of services
12 that constitute a defined set of covered services for a section 1115 waiver eligibility group. The department may
13 provide coverage of a service not specified in 53-6-101 if the department determines the service to be
14 appropriate for the particular section 1115 waiver eligibility group. The department may define the nature,
15 components, scope, amount, and duration of each covered service to be made available to a section 1115
16 waiver eligibility group. The nature, components, scope, amount, and duration of a covered service made
17 available to a section 1115 waiver eligibility group need not conform to those aspects of that service as defined
18 by the department for delivery as a covered service to another section 1115 waiver eligibility group or to a
19 medicaid eligibility group that is not encompassed within a section 1115 waiver.

20 ~~(12)~~(13) The department may adopt financial participation requirements for enrollees in a section 1115
21 eligibility group to foster appropriate use among enrollees and to maintain the fiscal accountability of the
22 program. The department may adopt financial participation requirements, including but not limited to
23 copayments, payment of monthly or yearly enrollment fees, or deductibles. The requirements may vary among
24 the section 1115 waiver eligibility groups. In adopting financial participation requirements for enrollees selecting
25 coverage as provided in subsection ~~(10)~~(11)(b)(iv), the department may not adopt cost-sharing amounts that
26 exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply
27 to categorically or medically needy persons for a service pursuant to the state medicaid plan.

28 ~~(13)~~(14) (a) The department shall adopt rules as necessary for the implementation of a section 1115

1 waiver. Rules may include but are not limited to:

2 (i) designation of programs and activities for implementation of a section 1115 waiver;

3 (ii) features and benefit coverage of the programs;

4 (iii) the nature, components, scope, amount, and duration of each program service;

5 (iv) appropriate insurance products and coverage as benefits;

6 (v) required enrollee eligibility information;

7 (vi) enrollee eligibility categories, criteria, requirements, and related measures;

8 (vii) limits upon enrollment;

9 (viii) requirements and limitations for service costs and expenditures;

10 (ix) measures to ensure the appropriateness and quality of services to be delivered;

11 (x) provider requirements and reimbursement;

12 (xi) financial participation requirements for enrollees;

13 (xii) use measures; and

14 (xiii) other appropriate provisions necessary for administration of a demonstration project and for
15 implementation of the conditions placed upon approval of a section 1115 waiver by the U.S. department of
16 health and human services.

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

20 ~~(14)~~(15) The department shall administer the programs and activities that are subject to a section 1115
21 waiver in accordance with the terms and conditions of approval by the U.S. department of health and human
22 services. The department may modify aspects of established programs and activities administered by the
23 department as may be necessary to implement a section 1115 waiver as provided in this section.

24 ~~(15)~~(16) The department may seek an initial duration and durational extensions for a section 1115
25 waiver as the department determines appropriate for demonstration and fiscal considerations.

26 ~~(16)~~(17) The department shall provide a report to the legislature, as provided in 5-11-210, on the
27 conditions of approval and the status of implementation for each section 1115 waiver approved by the U.S.
28 department of health and human services. For any proposed section 1115 waiver not approved by the U.S.

1 department of health and human services, the department shall provide to the next legislative session a report
2 on the basis for disapproval and an analysis of the fiscal costs and programmatic impacts of serving the
3 persons within the proposed section 1115 waiver eligibility groups through eligibility under one of the optional
4 medicaid eligibility categories established in federal law and authorized by 53-6-131.

5 ~~(17)~~(18) The department shall present a section 1115 waiver proposal to the appropriate medicaid
6 advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal
7 government.

8 ~~(18)~~(19) The department shall present a section 1115 waiver proposal to the house appropriations
9 committee or, during the interim, the children, families, health, and human services interim committee for review
10 and comment at a public hearing prior to the submission of the proposal to the federal government for formal
11 approval and shall also present the section 1115 waiver after final approval from the federal government.

12 ~~(19)~~(20) (a) The department shall provide for a public comment period on the proposed section 1115
13 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government
14 for formal approval.

15 (b) The department shall give notice of the proposal by announcing the pending submittal, stating its
16 general purpose, and informing the public that information on the proposal is available on the department's
17 website.

18 (c) The department shall provide for public comment through electronic means or mail and shall
19 provide for a public forum in at least one location at which members of the public can submit views on the
20 proposal. The department shall consider comments received and make any appropriate changes to the waiver
21 request before submitting it to the federal government.

22 (d) The department shall post on its website the waiver concept paper, formal correspondence
23 regarding a waiver proposal, and the final approved waiver, including documents received from the centers for
24 medicare and medicaid services."

25

26 **Section 4.** Section 53-2-613, MCA, is amended to read:

27 **"53-2-613. Application for assistance -- assignment of support rights.** (1) Applications for public
28 assistance, including but not limited to cash assistance or nonfinancial assistance, as defined in 53-2-902, and

1 medical assistance, may be made in any local office of public assistance. The application must be submitted in
 2 the manner and form prescribed by the department and must contain information required by the department.

3 (2) A person who signs an application for cash assistance, as defined in 53-2-902, or for related
 4 medical assistance assigns to the state, to the department, and to the county, if county funds were used to pay
 5 for services, all rights that the applicant may have to monetary and medical support from any other person in
 6 the applicant's own behalf or in behalf of any other family member for whom application is made. A person who
 7 signs an application for public assistance other than cash assistance, as defined in 53-2-902, or for related
 8 medical assistance may, in accordance with rules adopted by the department, be required to assign to the
 9 state, to the department, and to the county all rights that the applicant may have to monetary and medical
 10 support from any other person in the applicant's own behalf or on behalf of any other family member for whom
 11 application is made.

12 (3) The department shall conduct ongoing verification that a person applying for or receiving benefits
 13 under the medical assistance program provided for in Title 53, chapter 6, has met the requirements of 42 CFR
 14 435.610 to cooperate with the child support enforcement program to obtain medical support, subject to good
 15 cause or other exceptions allowed under federal law.

16 ~~(3)~~(4) The assignment:

- 17 (a) is effective for current support and medical obligations;
 18 (b) takes effect upon a determination that the applicant is eligible for public assistance; and
 19 (c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued
 20 under the assignment that was owed prior to the termination of public assistance to a recipient.

21 ~~(4)~~(5) If a person who is the legal custodian and child support obligee under a support order
 22 relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody
 23 and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support
 24 obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in
 25 subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical
 26 custody of the child, except for any unpaid support still owing under the assignment at that time.

27 ~~(5)~~(6) Whenever a child support or spousal support obligation is assigned to the department pursuant
 28 to this section, the following provisions apply:

1 (a) If the support obligation is based upon a judgment or decree or an order of a court of competent
2 jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the
3 cumulative total of public assistance money expended.

4 (b) A recipient or former recipient of public assistance may not commence or maintain an action to
5 recover or enforce a delinquent support obligation or make any agreements with any other person or agency
6 concerning the support obligation, except as provided in 40-5-202.

7 (c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay or
8 release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant
9 to a judgment or decree or an order of the court until the department's child support enforcement division has
10 filed a written notice that:

11 (i) the assignment of current support amounts has been terminated; and

12 (ii) all assigned support delinquencies, if any, are satisfied or released.

13 (d) A recipient or former recipient of public assistance may not take action to modify or make any
14 agreement to modify, settle, or release any past, present, or future support obligation unless the department's
15 child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or
16 agreements entered into without the participation of the department are void with respect to the state, the
17 department, and the local office of public assistance.

18 (e) A support obligation assigned under this section may not be terminated, invalidated, waived, set
19 aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of
20 public assistance to take any action or to cease any action required under a decree, judgment, support order,
21 custody order, visitation order, restraining order, or other similar order."

22

23 **Section 5.** Section 53-4-1002, MCA, is amended to read:

24 **"53-4-1002. (Temporary) Purpose -- ~~definition~~ definitions.** (1) The purpose of this part is to create
25 a program to provide health care to children who are uninsured or do not have access to affordable employer-
26 sponsored health care coverage and are not eligible for health care services under the Montana medicaid
27 program. These health care services may be provided by the payment for health care through an insurance
28 plan, a health maintenance organization, a managed care plan, or direct payment to a health care provider.

1 (2) As used in ~~53-4-1003 through 53-4-1005 and 53-4-1007 through 53-4-1010~~ this part, the following
 2 definitions apply:

3 (a) "affordable employer-sponsored health care coverage" means major medical insurance that
 4 covers at least physician services and for which an employer covers 80% or more of the premium costs for the
 5 family;

6 (b) "department" means the department of public health and human services provided for in 2-15-
 7 2201; and

8 (c) "program" means the state children's health insurance program. (Terminates on occurrence of
 9 contingency--sec. 15, Ch. 571, L. 1999.)"

10

11 **Section 6.** Section 53-4-1003, MCA, is amended to read:

12 **"53-4-1003. (Temporary) Establishment and administration of program -- eligibility**

13 **determination by department -- reporting requirement.** ~~The department of public health and human services~~
 14 may establish, administer, and monitor a program to provide health care to uninsured children. The department
 15 may not use money appropriated for this program to expand eligibility criteria for the Montana medicaid
 16 program.

17 (2) The department shall accept an assessment of eligibility by a state or federal health benefit
 18 exchange established pursuant to 42 U.S.C. 18031 and shall further verify a person's eligibility as required
 19 under this section.

20 (3) If the department cannot verify eligibility for the program using available electronic data sources or
 21 if a discrepancy exists between the information provided in the application and information from the data
 22 sources, the department:

23 (a) may not accept as verification a statement that reasonably explains the information in question;
 24 and

25 (b) may only accept third-party paper documentation to verify the information in question.

26 (4) The department may not:

27 (a) accept self-attestation as a means of verification for eligibility determination, except as required by
 28 federal law or regulation; or

1 (b) approve, without reconciling the differences, an initial application or renewal when an applicant
 2 has indicated the applicant's income is below the eligibility standard but an electronic data source or third-party
 3 paper documentation shows the applicant's income is above the eligibility standard, unless the income shown
 4 by the data source is within 5% of the income listed by the applicant.

5 (5) At renewal, in the event an eligibility requirement cannot be verified through an electronic data
 6 source or if it appears that the covered person will lose eligibility, the department shall send a prepopulated
 7 renewal form. The renewal form must be completed and any required documentation returned within 30 days in
 8 order for the child to remain eligible for benefits.

9 (6) The department may not provide benefits under this part until it has verified each eligibility
 10 criterion.

11 (7) The department shall provide copies of the federal payment error rate measurement and medicaid
 12 eligibility quality control programs reports to the children, families, health, and human services interim
 13 committee, in accordance with 5-11-210.(Terminates on occurrence of contingency--sec. 15, Ch. 571, L.
 14 1999.)"

15

16 **Section 7.** Section 53-4-1004, MCA, is amended to read:

17 **"53-4-1004. (Temporary) Eligibility for program -- rulemaking.** (1) To be considered eligible for the
 18 program, a child:

19 (a) must be 18 years of age or younger;

20 (b) must have a combined family income at or below 250% of the federal poverty level or at a lower
 21 level determined by the department of public health and human services as provided in subsection ~~(4)~~(6);

22 (c) may not already be covered by private insurance that offers creditable coverage, as defined in 42
 23 U.S.C. 300gg(c), for 3 months prior to enrollment in the program or since birth, whichever period is less;

24 (d) may not be eligible for medicaid benefits; and

25 (e) must be a United States citizen or qualified alien and a Montana resident.

26 (2) The department shall use any viable health information exchange, claims database, or health
 27 services database available to the state that has information sufficient to confirm that a claim for payment of
 28 medical expenses has not been filed with a private insurer in the 3 months prior to the application for coverage

1 under this part.

2 (b) If the electronic data source does not return any data reflecting prior coverage, the department
 3 shall require the applicant to provide paper documentation from the most recent insurer noting the date on
 4 which the creditable coverage ended.

5 (3) A child is not eligible for coverage if affordable employer-sponsored health coverage is available.

6 ~~(2)(4)~~ The department of public health and human services shall adopt rules that establish the
 7 program's criteria for residency. The criteria must conform as nearly as practicable with the residency
 8 requirements for medicaid eligibility.

9 ~~(3)(5)~~ Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and
 10 criteria for income and resources, treatment of resources, and nonfinancial criteria.

11 ~~(4)(6)~~ (a) If the department determines that there is insufficient funding for the program and takes the
 12 steps provided for in subsection (6)(b) first, it may :

13 (i) lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce
 14 the number of persons who may be eligible to participate; or

15 (ii) may limit the amount, scope, or duration of specific services provided; or

16 (iii) utilize cost-sharing approaches as allowed under 53-4-1008.

17 (b) Before making changes as allowed in subsection (6)(a), the department shall report to the
 18 appropriations committee or, during the interim, to the children, families, health, and human services interim
 19 committee and the legislative finance committee and demonstrate that program funding remains insufficient
 20 after efforts have been made to reduce administrative and indirect expenses. (Terminates on occurrence of
 21 contingency--sec. 15, Ch. 571, L. 1999; sec. 14, I.M. No. 155, approved November 4, 2008.)"

22

23 **Section 8.** Section 53-4-1008, MCA, is amended to read:

24 **"53-4-1008. (Temporary) Participant eligibility standards and cost sharing. (1) The department of**
 25 **public health and human services may adjust the income eligibility standard within the range provided for in 53-**
 26 **4-1004(1)(b) and may charge fees to participants in the program. The fees may include:**

27 ~~(4)(a)~~ monthly or yearly enrollment fees;

28 ~~(2)(b)~~ minimum charges to be incurred or spent before benefits are paid;

1 ~~(3)(c)~~ cost sharing for individual benefits; and

2 ~~(4)(d)~~ other types of charges assessed as part of the program.

3 (2) (a) Beginning on January 1, 2022, the maximum annual family copayment for the benefit year
4 must be set at \$220.

5 (b) The department may adjust the maximum annual family copayment annually by an amount equal
6 to the average rate of inflation for the prior 3 years, calculated using the consumer price index, U.S. city
7 average, all urban consumers, as published by the bureau of labor statistics of the United States department of
8 labor. The annual increase may not exceed 3%.

9 (c) The department may adopt rules to exempt specified services from the copayment requirements
10 of this section. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999.)"

11

12 **Section 9.** Section 53-4-1115, MCA, is amended to read:

13 **"53-4-1115. Special revenue account.** (1) There is an account in the state special revenue fund to
14 the credit of the department for the purposes provided in subsection (2). There must be paid into the account
15 the amounts collected under 33-2-708(3)(b). Any interest or income derived from the account must be
16 deposited in the account.

17 (2) Money in the account:

18 (a) is to be used solely to cover the number of additional enrollees in the plan that exceeds the
19 number of enrollees as of November 4, 2008, within the limits provided in 53-4-1004, 53-6-131, and this part,
20 and to cover the costs of enrollment, including premium assistance, under 53-4-1108(1), and to pay
21 administrative costs associated with expanded eligibility, and to establish and maintain a reserve; and

22 (b) may be used only to match federal funds available under the children's health insurance program
23 and the Montana medicaid program.

24 (3) The unexpended balance of an appropriation from the account must remain in the account and
25 may be used only for the purposes stated in subsection (2).

26 (4) The special revenue account does not affect and is not exclusive of any other sources of funding
27 for the programs described in 53-4-1104(2), including the special revenue account provided for in 53-4-1012.

28 (5) If the department determines that there is insufficient funding for the purposes of subsection (2), it

1 may reduce eligibility requirements for participants in the children's health insurance program as provided in 53-
2 4-1004(4)."

3

4 **Section 10.** Section 53-6-101, MCA, is amended to read:

5 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana
6 medicaid program established for the purpose of providing necessary medical services to eligible persons who
7 have need for medical assistance. The Montana medicaid program is a joint federal-state program administered
8 under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The
9 department shall administer the Montana medicaid program.

10 (2) (a) The department and the legislature shall consider the following funding principles when
11 considering changes in medicaid policy that either increase or reduce services:

12 ~~(a)~~(i) protecting those persons who are most vulnerable and most in need, as defined by a
13 combination of economic, social, and medical circumstances;

14 ~~(b)~~(ii) giving preference to the elimination or restoration of an entire medicaid program or service,
15 rather than sacrifice or augment the quality of care for several programs or services through dilution of funding;
16 and

17 ~~(c)~~(iii) giving priority to services that employ the science of prevention to reduce disability and illness,
18 services that treat life-threatening conditions, and services that support independent or assisted living, including
19 pain management, to reduce the need for acute inpatient or residential care.

20 (b) The department may consider a reduction in services only after reporting to the appropriations
21 committee or, during the interim, the children, families, health, and human services interim committee and the
22 legislative finance committee and demonstrating that a reduction in services is still needed after efforts have
23 been made to reduce administrative and indirect expenses.

24 (3) Medical assistance provided by the Montana medicaid program includes the following services:

25 (a) inpatient hospital services;

26 (b) outpatient hospital services;

27 (c) other laboratory and x-ray services, including minimum mammography examination as defined in

28 33-22-132;

- 1 (d) skilled nursing services in long-term care facilities;
- 2 (e) physicians' services;
- 3 (f) nurse specialist services;
- 4 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age,
5 in accordance with federal regulations and subsection (10)(b);
- 6 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided
7 in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 8 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant
9 women;
- 10 (j) services that are provided by physician assistants within the scope of their practice and that are
11 otherwise directly reimbursed as allowed under department rule to an existing provider;
- 12 (k) health services provided under a physician's orders by a public health department;
- 13 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
- 14 (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as
15 provided in 33-22-153;
- 16 (n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103; and
- 17 (o) services provided by a person certified in accordance with 37-2-318 to provide services in
18 accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.
- 19 (4) Medical assistance provided by the Montana medicaid program may, as provided by department
20 rule, also include the following services:
- 21 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
22 practitioners within the scope of their practice as defined by state law;
- 23 (b) home health care services;
- 24 (c) private-duty nursing services;
- 25 (d) dental services;
- 26 (e) physical therapy services;
- 27 (f) mental health center services administered and funded under a state mental health program
28 authorized under Title 53, chapter 21, part 10;

- 1 (g) clinical social worker services;
- 2 (h) prescribed drugs, dentures, and prosthetic devices;
- 3 (i) prescribed eyeglasses;
- 4 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- 5 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 6 (l) services of professional counselors licensed under Title 37, chapter 23;
- 7 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 8 (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted
- 9 case management services for the mentally ill;
- 10 (o) services of psychologists licensed under Title 37, chapter 17;
- 11 (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.
- 12 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;
- 13 (q) services of behavioral health peer support specialists certified under Title 37, chapter 38, provided
- 14 to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and
- 15 (r) any additional medical service or aid allowable under or provided by the federal Social Security
- 16 Act.
- 17 (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as
- 18 described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others
- 19 qualifying for assistance under the Montana medicaid program. The department is not required to provide all of
- 20 the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy
- 21 category of assistance.
- 22 (6) In accordance with federal law or waivers of federal law that are granted by the secretary of the
- 23 U.S. department of health and human services, the department may implement limited medicaid benefits, to be
- 24 known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as
- 25 defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of
- 26 medical assistance only who are covered under a group related to a program providing cash assistance, as
- 27 defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may
- 28 include those optional services listed in subsections (4)(a) through (4)(r) that the department in its discretion

1 specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated
2 by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a
3 particular service is commonly covered by private health insurance plans. However, a recipient who is
4 pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or
5 is less than 21 years of age is entitled to full medicaid coverage.

6 (7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
7 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
8 and coinsurance for persons not otherwise eligible for medicaid.

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

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

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

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

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

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

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

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

28 (12) If available funds are not sufficient to provide medical assistance for all eligible persons, the

1 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
2 services made available under the Montana medicaid program after taking into consideration the funding
3 principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2023--sec. 7, Ch. 412, L.
4 2019.)"

5

6 **Section 11.** Section 53-6-131, MCA, is amended to read:

7 **"53-6-131. (Temporary) Eligibility requirements.** (1) Medical assistance under the Montana
8 medicaid program may be granted to a U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641 who is
9 determined by the department of public health and human services to be a Montana resident and, in its
10 discretion, to be eligible as follows:

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

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

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

18 (d) The person is:

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

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

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

23 and:

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

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

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

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

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

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

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

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

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

21 (b) The department may not count as a resource an individual retirement account that was
22 established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-
23 195 if:

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

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

27 (4) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for
28 medicaid-eligible persons participating in the medicare program and may, within the discretion of the

1 department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified
2 medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of
3 the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

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

6 (b) has resources that do not exceed standards that the department determines reasonable for
7 purposes of the program.

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

10 (6) In accordance with 53-6-134, ~~the department may not seek~~ waivers of federal law that are granted
11 by the secretary of the U.S. department of health and human services, ~~the department of public health and~~
12 ~~human services may grant to extend~~ eligibility for basic medicaid benefits as described in 53-6-101 to an
13 individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative
14 of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria
15 for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age
16 is entitled to full medicaid coverage, as provided in 53-6-101.

17 (7) The department, under the Montana medicaid program, may provide, if a waiver is not available
18 from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act,
19 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons
20 that may be designated by the act for receipt of assistance.

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

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

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

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

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

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

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

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

13 and

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

15 (12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers
16 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)
17 and 42 U.S.C. 1396o.

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

21 **53-6-131. (Effective on occurrence of contingency) Eligibility requirements.** (1) Medical
22 assistance under the Montana medicaid program may be granted to a person who is determined by the
23 department of public health and human services, in its discretion, to be eligible as follows:

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

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

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

3 (d) The person is:

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

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

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

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

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

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

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

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

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

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

28 (2) (a) The department may establish income and resource limitations. Limitations of income and

1 resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise
2 applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy
3 Montana kids plan provided for in 53-4-1104.

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

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

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

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

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

17 (b) has resources that do not exceed standards that the department determines reasonable for
18 purposes of the program.

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

21 (5) In accordance with 53-6-134, ~~the department may not seek~~ waivers of federal law that are granted
22 by the secretary of the U.S. department of health and human services, ~~the department of public health and~~
23 ~~human services may grant to extend~~ eligibility for basic medicaid benefits as described in 53-6-101 to an
24 individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative
25 of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria
26 for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age
27 is entitled to full medicaid coverage, as provided in 53-6-101.

28 (6) The department, under the Montana medicaid program, may provide, if a waiver is not available

1 from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act,
2 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons
3 that may be designated by the act for receipt of assistance.

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

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

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

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

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

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

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

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

24 and

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

26 (11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers
27 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)
28 and 42 U.S.C. 1396o."

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Section 12. Section 53-6-133, MCA, is amended to read:

"53-6-133. Eligibility determination and redetermination -- reporting requirement. (1) The local office of public assistance shall promptly determine the eligibility of each applicant under this part in accordance with the rules of the department. Each applicant must be informed of the right to a fair hearing and of the confidential nature of the information given. The department, through the local office of public assistance, shall, after the hearing, determine whether or not the applicant is eligible for assistance under this part, and aid must be furnished promptly to eligible persons. Each applicant must receive written notice of the decision concerning the applicant's application, and the right of appeal is secured to the applicant under the procedures of 53-2-606.

(2) The local office of public assistance and the department:

(a) may accept the federal social security administration's determination of eligibility for supplemental security income, Title XVI of the Social Security Act, as qualifying the eligible individuals to receive medical assistance under this part; and

(b) shall accept an assessment of eligibility by federal or state health benefit exchange established pursuant to 42 U.S.C. 18031 and shall further verify a person's eligibility as required under this section.

(3) (a) ~~The~~ Before authorizing payment of benefits under this part, the department shall verify confirm an applicant's eligibility by verifying the information provided on an application for medicaid ~~under part 13 or under this part,~~ using:

(i) all electronic data sources allowed under federal law or regulation to verify each criterion for eligibility; and

(ii) Montana department of revenue information as required under subsection (3)(b), to confirm an applicant's eligibility for the program before authorizing payment of benefits under the program.

(b) The department shall request income tax and wage income from the department of revenue as allowed under 15-30-2618 and 15-31-511 to verify the income information provided by applicants ~~who may be eligible for coverage pursuant to 53-6-1304.~~

(4) The department shall use any viable health information exchange, claims database, or health services database available to the state that has information sufficient to assess, at the time of initial application and at least annually, the presence of other coverage for medical services.

1 (5) If the department cannot verify a person's eligibility for the program using available electronic data
 2 sources or if a discrepancy exists between the information provided by the applicant and information contained
 3 in a data source, the department:

4 (a) may not accept as verification a statement that reasonably explains the information in question;
 5 and

6 (b) may only accept third-party paper documentation to verify the information in question.

7 (6) The department may not:

8 (a) accept self-attestation as a means of verification for eligibility determination, except as required by
 9 federal law or regulation; or

10 (b) approve, without reconciling the differences, an initial application or renewal when an applicant
 11 has indicated the applicant's income is below the eligibility standard but an electronic data source or third-party
 12 paper documentation shows the applicant's income is above the eligibility standard, unless the income shown
 13 by the data source is within 5% of the income listed by the applicant.

14 ~~(4)(7)~~ The department shall establish by rule the documents to be used to verify that an applicant is a
 15 Montana resident.

16 (8) The department shall provide copies of the federal payment error rate measurement and medicaid
 17 eligibility quality control programs reports to the children, families, health, and human services interim
 18 committee, in accordance with 5-11-210. ~~(Subsections (3) and (4)(7) terminate June 30, 2025, on occurrence of~~
 19 contingency--sec. 48, Ch. 415, L. 2019.)"

20

21 **Section 13.** Section 53-6-134, MCA, is amended to read:

22 "**53-6-134. ~~Extension of eligibility for medical~~ Medical assistance to persons terminated from**
 23 **under the section 1931 medicaid program -- termination.** (1)—~~In providing for the extension of eligibility for~~
 24 ~~medical assistance under subsection (2), the department may provide for health insurance or other health~~
 25 ~~coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security~~
 26 ~~Act, 42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C), and may exercise the other options contained~~
 27 ~~in section 1925 of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6, regarding the provision of medical~~
 28 ~~assistance.~~

1 ~~(2)~~—In accordance with waivers of federal law that are granted by the secretary of the U.S. department
 2 of health and human services, the The department of public health and human services may not seek a waiver
 3 of federal law to provide extended eligibility for medical assistance for a period of time established by the
 4 department by rule for persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose
 5 eligibility because of increased earned or unearned income to the assistance unit, as that term is defined in the
 6 rules of the department, ~~provided that the family's income does not exceed a percentage of the federal poverty~~
 7 ~~level established by the department by rule. The department, in exercising its discretion to establish income~~
 8 ~~standards and duration of extended medical assistance by rule, may consider the amount of funds appropriated~~
 9 ~~by the legislature. A person who loses section 1931 medicaid benefits because of increased earned or~~
 10 unearned income may apply for other medicaid coverage for which the person may be eligible.

11 (2) (a) The department shall terminate section 1931 medicaid benefits for an individual who has been
 12 identified as refusing to work under the cash assistance program described in 53-2-602.

13 (b) This subsection (2) may not be construed as allowing the department to terminate medicaid
 14 benefits for a minor child who is not the head of a household receiving cash assistance through the temporary
 15 assistance for needy families program."

16

17 **Section 14.** Section 53-6-1304, MCA, is amended to read:

18 **"53-6-1304. (Temporary) Montana HELP Act program -- eligibility for coverage of health care**
 19 **services -- exceptions.** (1) An individual is eligible for coverage of health care services provided pursuant to
 20 this part if the individual meets the requirements of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

21 (2) The department may not pay for health care costs incurred before the date of the program
 22 participant's eligibility date for medical assistance.

23 ~~(2)(3)~~ The department may serve individuals who are eligible for medicaid-funded services pursuant
 24 to this part through the medical assistance program established in Title 53, chapter 6, part 1, if the individuals
 25 would be served more appropriately because the individuals:

26 (a) have exceptional health care needs, including but not limited to medical, mental health, or
 27 developmental conditions;

28 (b) live in a geographical area, including an Indian reservation, that would not be effectively or

1 efficiently served through this part;

2 (c) need continuity of care that would not be available or cost-effective through this part;

3 (d) are exempt under the waiver implementing this part as of July 1, 2019; or

4 (e) are otherwise exempt under federal law. (Terminates June 30, 2025--secs. 38, 48, Ch. 415, L.
5 2019.)"

6

7 **NEW SECTION. Section 15. Direction to department of public health and human services --**

8 **notification to legislature.** (1) The legislature directs the department of public health and human services to:

9 (a) apply to the centers for medicare and medicaid services for any waivers or state plan
10 amendments needed to implement the provisions of [this act];

11 (b) carry out any activities before December 31, 2021, that are needed in order to develop and submit
12 waiver proposals by December 31, 2021, including but not limited to:

13 (i) presenting any section 1115 waiver proposals to the medicaid advisory council and the children,
14 families, health, and human services interim committee prior to submission to the centers for medicare and
15 medicaid services, as required under 53-2-215;

16 (ii) providing for a public comment period at least 60 days before submission as required under 53-2-
17 215; and

18 (iii) complying with any other public comment provisions required under federal law or regulation; and

19 (c) if a waiver application is denied, to resubmit, as appropriate, a revised request for approval within
20 6 months of a change in policy applicable to the subject matter of the waiver application.

21 (2) If required by the centers for medicare and medicaid services to eliminate provisions related to 12-
22 month continuous eligibility, the legislature directs the department of public health and human services to
23 submit amendments to waiver No. 11-W-00300/8 and to the pending application to extend and revise waiver
24 No. 11-W-00300/8.

25 (3) The legislature directs the department of public health and human services to notify individuals
26 enrolled in the children's health insurance program and the medicaid program of the proposed changes to
27 eligibility requirements and verification procedures. Notification of changes that are dependent on approval of a
28 waiver request may be made at the time a waiver proposal is either submitted or approved, at the department's

1 discretion.

2 (4) The legislature directs the department of public health and human services to implement eligibility
3 changes for nonexpansion medicaid members within 30 days of the expiration of the 6.2% enhanced federal
4 medical assistance percentage for the medicaid program that was enacted through the Families First
5 Coronavirus Relief Act of March 18, 2020.

6 (5) If implementation of any eligibility standards, procedures, or methodologies provided for in [this
7 act] would result in a reduction in the federal medical assistance percentages for the children's health insurance
8 program or the medicaid program or otherwise result in a loss of funding for either or both programs, the
9 legislature directs the department to delay the implementation of those provisions until implementation can
10 occur without a reduction in a federal medical assistance percentage or other loss of federal funding.

11 (6) The director of the department shall notify the code commissioner, the legislative finance
12 committee, and the children, families, health, and human services interim committee of:

13 (a) the date or dates on which waiver approval is received or denied; and

14 (b) if waiver approval is received, the dates on which the various provisions of [this act] are
15 implemented.

16

17 **Section 16.** Section 48, Chapter 415, Laws of 2019, is amended to read:

18 **"Section 48. Termination -- contingency -- intent.** (1) Except as provided in subsection (4) if, if a
19 court of final disposition finds that the community engagement requirements provided for in [section 1] are
20 invalid, [this act] terminates June 30, 2025.

21 (2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the
22 legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to
23 determine whether [this act] should continue.

24 (3) [Sections 19 and 20] regarding supplemental transfers terminate June 30, 2021.

25 (4) [Sections 8 and 10] do not terminate."

26

27 **NEW SECTION. Section 17. Effective date -- contingent effective dates.** (1) Except as provided in
28 subsection (2), [this act] is effective July 1, 2021.

1 (2) [Section 15] is effective on approval of any federal waiver required to implement the provisions of
2 [section 15].

3

4 NEW SECTION. Section 18. Contingent termination. (1) [Sections 5 through 10] terminate on the
5 date that the director of the department of public health and human services certifies to the governor that the
6 federal government has terminated the program or that federal funding for the program has been discontinued.

7 (2) The governor shall transmit a copy of the certification to the code commissioner.

8

- END -