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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HUMAN SERVICES -- DISABLED CHILDREN'S MEDICAID BUY-IN

Introduced By: Representatives Naughton, Morrison, Slater, E Coderre, and Gallison

Date Introduced: March 13, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 8.11

4 MEDICAID BUY-IN FOR CHILDREN WITH DISABILITIES ACT

5 **40-8.11-1. Short title.** – This chapter shall be known and may be cited as the “Medicaid  
6 Buy-In for Children with Disabilities Act.”

7 **40-8.11-2. Legislative findings.** – The general assembly hereby finds and declares:

8 WHEREAS, The National Health Interview Survey (NHIS) census data shows that eight  
9 percent (8%) of children in this country have significant disabilities, many of whom do not have  
10 access to critical healthcare services they need.

11 WHEREAS, In order for these families to get needed health services for their children,  
12 many are forced to stay impoverished, become impoverished, put their children in out-of-home  
13 placements, or simply give up custody of their children so that their child can maintain eligibility  
14 for health coverage through Medicaid.

15 WHEREAS, Children must not have health insurance coverage for six (6) months to  
16 become eligible for the Children Health Insurance Program (CHIP).

17 WHEREAS, The six (6) month lack of health insurance coverage causes children with  
18 disabilities deterioration of their health status.

19 WHEREAS, Families with children with disabilities report they are turning down jobs,

1 turning down raises, turning down overtime, and are unable to save money for the future of their  
2 children and family so that they can stay in the income bracket that qualifies their child for social  
3 security income and/or Medicaid.

4 WHEREAS, The Family Opportunity Act of 2005 was intended to address the two (2)  
5 greatest barriers preventing families from staying together and staying employed.

6 WHEREAS, The Family Opportunity Act, signed into law by congress as part of the  
7 Deficit Reduction Act of 2005, allows states to offer a Medicaid buy-in program to children with  
8 disabilities who are not eligible for supplemental security income (SSI) disability benefits due to  
9 family income requirements, but who do meet the social security childhood disability  
10 determination qualifications.

11 WHEREAS, Through implementation of the Family Opportunity Act, children with  
12 special healthcare needs may access comprehensive health insurance coverage who are now  
13 uninsured, and fill in some of the gaps in their coverage through the Medicaid Buy-in program.

14 WHEREAS, Only Medicaid can provide these comprehensive services.

15 WHEREAS, Through the Medicaid buy-in program disabled children can “buy-in” to  
16 Medicaid either as their only source of health coverage, or as supplement to private health  
17 insurance.

18 WHEREAS, The state can offer Medicaid buy-in programs and receive federal matching  
19 funds for the cost of these services.

20 WHEREAS, A majority of these children covered by the Family Opportunity Act will  
21 have private coverage as their primary payer, the Medicaid program will not have to cover  
22 services such as hospitalization and pharmaceuticals, which are typically the most expensive. The  
23 majority of costs, as is seen in other states with buy-in programs, rest on copayments, deductibles  
24 and other out-of-pocket costs currently borne by families of children with disabilities.

25 WHEREAS, A Medicaid buy-in program means savings in state spending on other  
26 sources of coverage for children and youth with disabilities such as uncompensated care, bad debt  
27 at public hospitals and clinics, as well as education, juvenile justice and social services.

28 WHEREAS, Families that are currently forced to limit their income in order to qualify  
29 for Medicaid may take pay raises, overtime, and promotions without losing their child's health  
30 coverage. Families who earn too much to qualify for Medicaid, but not enough for private  
31 insurance may have access to coverage for their children with disabilities. Most significantly,  
32 fewer families will face the choice of giving up custody or placing their children in institutions in  
33 order to obtain the healthcare coverage they require.

34 **40-8.11-3. Definitions.** – For the purposes of this section, the following terms are defined

1 as:

2 (1) "Family Opportunity Act" means the federal law enacted as a part of the Deficit  
3 Reduction Act of 2005, Public Law 109-171; Stat. 442 U.S.C. 1396.

4 (2) "Children with disabilities" means having a physical and/or mental impairment that is  
5 disabling under the social security administration's childhood disability definition.

6 (3) "Disability determinations" means one made by the medical eligibility determination  
7 team (MEDT) unless disability has already been established by the social security administration.

8 **40-8.11-4. Legislative purpose and policy.** – It shall be the goal and purpose of this  
9 chapter to require the office of health and human services (OHHS) and its Medicaid office to  
10 provide access to children that meet the social security administration's definition of disability.

11 (a) The OHHS and its Medicaid office are hereby authorized and directed to amend its  
12 title XIX state plan to initiate a Medicaid buy-in program for children with disabilities.

13 (b) The OHHS and its Medicaid office are hereby authorized and directed to amend its  
14 title XIX state plan to initiate community choice first (Section 2401 in the Affordable Care Act  
15 Section 1915 (k) in the Social Security Act). This provision provides states with an additional  
16 federal medical assistance program (FMAP) for personal care services for individuals with  
17 disabilities in order that parents can be employed and continues employment.

18 **40-8.11-5. Implementation.** – (a) Medicaid coverage to children less than nineteen (19)  
19 years of age for families with incomes up to three hundred percent (300%) of the federal poverty  
20 level receive federal match. This coverage may be a child's only health care coverage or  
21 supplemental to private insurance.

22 (b) The state may require families to pay monthly premiums based on a sliding scale. If  
23 parents have employer-provided health plans, they are required to apply for, enroll in, and pay  
24 these premiums (which will reduce the state costs) when the employer contributes at least fifty  
25 percent (50%) of the annual premium costs. Participation in such an employer-sponsored health  
26 plan, when available, is a condition of continuing Medicaid coverage.

27 (d) The aggregate amount of all premiums paid must not exceed five percent (5%) of a  
28 family's income for families below two hundred percent (200%) of the federal poverty level and  
29 seven and one-half percent (7.5%) of a family's income for families between two hundred percent  
30 (200%) and three hundred percent (300%) of the federal poverty level. The state has the option of  
31 waiving premiums in the case of undue hardship for families.

32 **40-8.11-6. Regulations and commencement of program.** – (a) The OHHS and its  
33 Medicaid office shall promulgate the rules and regulations necessary to implement the provisions  
34 of this act by October 30, 2012, and enrollment of children with disabilities in the Medicaid buy-

1 in program shall commence on March 1, 2013.

2 (b) The department shall report to the governor and the general assembly on or before  
3 December 31, 2013 and annually thereafter, with regard to the effectiveness of this chapter in  
4 achieving its purpose which report shall include, but not be limited to:

5 (1) The number of applications for the children's Medicaid buy-in, the number of  
6 beneficiaries approved who are new to Medicaid, the number of beneficiaries who were in  
7 another Medicaid eligibility category just prior to the children's Medicaid buy-in, and  
8 beneficiaries who have or have access to employer-based health insurance coverage;

9 (2) Demographics including: age; sex; employment supports provided; and primary  
10 disabling condition, as permissible under the health insurance portability and accountability act of  
11 1996 (HIPAA) privacy and security rules; prior and current participation in other public programs  
12 including Medicare, social security disability insurance (SSDI), supplemental security income  
13 (SSI), including the 1619 (b) provision; statistics regarding the number of beneficiaries employed,  
14 and the average wage of those beneficiaries prior to and post Medicaid buy-in eligibility;  
15 Statistics regarding the amounts of premiums collected; Medicaid claims data including pre-buy-  
16 in, while on the buy-in, and if disenrolled, after buy-in; and

17 (3) Findings and recommendations with regard to any improvements, amendments, or  
18 changes that should be considered to make the act more effective in achieving its purposes or  
19 which may be necessary in order to encourage more Medicaid beneficiaries parents to seek and  
20 retain employment;

21 **40-8.11-7. Application and appeals process.** – (a) The director, or his or her designee,  
22 shall review each application for benefits filed in accordance with regulations, and shall make a  
23 determination of whether the application will be honored and the extent of the benefits to be made  
24 available to the applicant, and shall within thirty (30) days after the filing notify the applicant, in  
25 writing, of the determination. If the application is rejected, the notice to the applicant shall set  
26 forth therein the reason therefor. The director may at any time reconsider any determination.

27 (b) Any applicant aggrieved because of a decision, or delay in making a decision, shall be  
28 entitled to an appeal and shall be afforded reasonable notice and opportunity for a fair hearing  
29 conducted by the director.

30 (c) Findings of fact by the director shall be final and his or her decision shall be subject to  
31 judicial review only by certiorari if the decision is arbitrary, capricious, or unreasonable or  
32 inconsistent with law.

33 **40-8.11-8. Annual program evaluation report.** – (a) The office of health and human  
34 services shall annually prepare a report for the state senate and house of representatives finance

1 committees which evaluates the Medicaid buy-in program.

2 (b) The report shall include, but not be limited to, the following:

3 (1) Comparison of employment incomes for the buy-in participants who enrolled in  
4 Medicaid change after they enrolled in the buy-in.

5 (2) The demographic information:

6 (i) Primary disabling condition;

7 (ii) Prior and current participation in other programs such as social security disability  
8 insurance; supplemental security income (including the 1819(b) provision) and Medicare;

9 (iii) Pre buy-in earned income;

10 (iv) Family earnings while participating in this buy-in;

11 (v) Hours worked; and

12 (vi) Availability of employer-provided health insurance coverage.

13 (3) The comparison of expenditures between primary disability for new Medicaid buy-in  
14 participants and participants who transferred from another Medicaid eligibility pursuant to this  
15 buy-in program.

16 (4) Disenrollment information as to why participants leave this program and what other  
17 Medicaid medical coverage they acquire.

18 (5) Whether disenrollees return to this buy-in program after a period of time off.

19 (6) Findings and recommendations based upon the best practices used in New England  
20 and throughout the nation concerning:

21 (i) The best practices to increase employment opportunities for the parents of disabled  
22 Medicaid children beneficiaries;

23 (ii) The best ways to support the working parents of disabled children;

24 (iii) The best strategies to ensure that supportive employment policies are integrated into  
25 the state's design and implementation of the following:

26 (A) Long-term affordable care act;

27 (B) Balancing incentive payments plan (BIPP);

28 (C) Section 1915(i) State plan amendment;

29 (D) Section 2400 community first choice (CFC);

30 (E) Section 2703 health homes for individuals with chronic conditions;

31 (F) Money follows the person; and

32 (G) The dual eligible integrated care plan.

33 SECTION 2. This act shall serve as a joint resolution required pursuant to Rhode Island  
34 general laws section 42-12-12.4-1, et seq.

1           WHEREAS, The General Assembly enacted Chapter 12.4 of Title 42 entitled “The  
2 Rhode Island Medicaid Reform Act of 2008”; and

3           WHEREAS, Rhode Island General Law section 42-12.4-7 provides that any change that  
4 requires the implementation of a rule or regulation or modification of a rule or regulation in  
5 existence prior to the implementation of the global consumer choice section 1115 demonstration  
6 (“the demonstration”) shall require prior approval of the general assembly; and further provides  
7 that any category II change or category III change as defined in the demonstration shall also  
8 require prior approval to the general assembly; and

9           WHEREAS, Rhode Island General Law section 42-7.2-5 states that the secretary of the  
10 office of health and human services is responsible for the “review and coordination of any global  
11 consumer choice and human services is responsible for the review and coordination of any global  
12 consumer choice compact waiver requests and renewals as well as any initiatives and proposals  
13 requiring amendments to the Medicaid state plan or category I or II changes” as described in the  
14 demonstration, with “the potential to affect the scope, amount, or duration of publicly-funded  
15 health care services, provider payments or reimbursements, or access to or the availability of  
16 benefits and services provided by Rhode Island general and public laws”; and

17           WHEREAS, In pursuit of a more cost-effective consumer choice system of care that is  
18 fiscally sound and sustainable, the secretary requests that the following proposal to amend the  
19 demonstration be approved by the general assembly: The OHHS proposes determination of  
20 eligibility and premiums for families of children with disabilities enrolled in the Medicaid buy-in  
21 program; now, therefore, be it

22           RESOLVED, That the general assembly hereby approves the changes set forth in the  
23 proposal listed above to amend the demonstration; and be it further

24           RESOLVED, That the secretary of the office of health and human services is authorized  
25 to pursue and implement any such necessary waiver amendments, category II or category III  
26 changes, state plan amendments and/or changes to the applicable department's rules, regulations  
27 and procedures approved herein and as authorized by section 42-12.4-7.

28           SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO HUMAN SERVICES -- DISABLED CHILDREN'S MEDICAID BUY-IN

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1           This would establish a framework for disabled children to buy into the federal Medicaid  
2 program.

3           This act would take effect upon passage.

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