

1 SENATE BILL NO. 72

2 INTRODUCED BY M. YAKAWICH

3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PRESUMPTIVE ELIGIBILITY UNDER THE  
6 MONTANA MEDICAID PROGRAM FOR CERTAIN HOME AND COMMUNITY-BASED SERVICES FOR  
7 PERSONS WITH PHYSICAL DISABILITIES AND PERSONS WHO ARE ELDERLY; PROVIDING A  
8 SCREENING PROCESS FOR PRESUMPTIVE ELIGIBILITY; ~~AND STATING TERMS OF PRESUMPTIVE~~  
9 ~~ELIGIBILITY; AND PROVIDING DIRECTIONS TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN~~  
10 ~~SERVICES; AND PROVIDING EFFECTIVE DATES.~~"

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

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14 NEW SECTION. **Section 1. Presumptive eligibility for persons with physical disabilities or**  
15 **elderly persons.** (1) (a) Presumptive eligibility under the Montana medicaid program for certain home and  
16 community-based services may be granted to a person who has a physical disability or who is elderly upon  
17 completion of the following:

- 18 (i) the screening process described in this section; and  
19 (ii) authorization by the division of the department that administers long-term care services for  
20 senior citizens and individuals with physical disabilities.

21 (b) Home and community-based services covered under the presumptive eligibility determination  
22 as provided for in this section include ~~the following:~~

- 23 (i) ~~personal care services;~~  
24 (ii) ~~meal delivery;~~  
25 (iii) ~~personal emergency response systems;~~  
26 (iv) ~~medical equipment and supplies;~~  
27 (v) ~~assistive or adaptive technology; and~~  
28 (vi) ~~other services necessary to successfully transition a patient from a hospital to the community or~~

1 stabilize a patient within the community to prevent hospitalization. HOME AND COMMUNITY-BASED SERVICES  
2 PROVIDED UNDER THE DEPARTMENT'S BIG SKY WAIVER PROGRAM AND COMMUNITY FIRST CHOICE AMENDMENT  
3 PROGRAM THAT ARE NECESSARY TO PREVENT INSTITUTIONALIZATION OR NECESSARY TO SUCCESSFULLY TRANSITION A  
4 PATIENT FROM A HOSPITAL OR OTHER INSTITUTIONAL SETTING.

5 (2) (a) The screening process may be conducted by staff of:

6 (i) the division of the department that administers long-term care services for senior citizens and  
7 individuals with physical disabilities; or

8 (ii) one of the following facilities who have received training and certification from the department  
9 to make presumptive eligibility determinations:

10 (A) an area agency on aging or its designated subcontractor;

11 (B) a tribal entity;

12 (C) a hospital or hospital-affiliated facility; or

13 (D) another entity deemed appropriate by the department or the division of the department that  
14 administers long-term care services for senior citizens and individuals with physical disabilities.

15 (b) Initial training of staff must be completed before an entity is certified to complete presumptive  
16 eligibility determinations, and the certification must be renewed annually.

17 (3) The screening process must include:

18 (a) an application as prescribed by the department;

19 (b) self-attestation that the applicant meets the income, resource AS DEFINED IN 20 CFR 416.1201,  
20 and residency requirements of the Montana medicaid program as prescribed in 53-6-131; and

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

22 (4) The applicant or the applicant's representative shall submit an application for ongoing coverage  
23 under the Montana medicaid program as provided in 53-6-131 within ~~40~~ 30 calendar days following the  
24 applicant's presumptive eligibility determination.

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

28 (6) A person may receive services under a presumptive eligibility determination only once within a

1 consecutive 12-month period.

2 (7) The applicant does not have a right to an administrative hearing on presumptive eligibility.

3 (8) THE DEPARTMENT MAY PROVIDE TIME EXTENSIONS FOR THE APPLICATION PROCESS AND SERVICE  
4 PERIODS SPECIFIED IN SUBSECTIONS (4) AND (5) AND PROVIDE EXCEPTIONS TO THE LIMIT ON AN INDIVIDUAL'S ABILITY TO  
5 QUALIFY FOR SERVICES THROUGH PRESUMPTIVE ELIGIBILITY DETERMINATIONS SPECIFIED IN SUBSECTION (6) WHEN THE  
6 DEPARTMENT DETERMINES THAT THE EXTENSIONS OR EXCEPTIONS FURTHER THE GOAL OF AVOIDING PREVENTABLE  
7 HEALTH DECLINES, INSTITUTIONAL PLACEMENTS, OR HOSPITALIZATIONS.

8 (9) THE DEPARTMENT SHALL SUBMIT TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES THE  
9 APPROPRIATE SECTION 1115 WAIVER APPLICATION, SECTION 1115 WAIVER AMENDMENT, SECTION 1915(K) STATE PLAN  
10 AMENDMENT, OR OTHER STATE PLAN AMENDMENT TO IMPLEMENT THE PRESUMPTIVE ELIGIBILITY PROGRAM DESCRIBED  
11 IN THIS SECTION.

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13 **NEW SECTION. Section 2. Notification to tribal governments.** The secretary of state shall send a  
14 copy of [this act] to each federally recognized tribal government in Montana.

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16 **NEW SECTION. SECTION 3. DIRECTION TO DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES.** THE  
17 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL SUBMIT TO THE CENTERS FOR MEDICARE AND MEDICAID  
18 SERVICES THE APPROPRIATE SECTION 1115 WAIVER APPLICATION, SECTION 1115 WAIVER AMENDMENT, SECTION  
19 1915(K) STATE PLAN AMENDMENT, OR OTHER STATE PLAN AMENDMENT TO IMPLEMENT THE PRESUMPTIVE ELIGIBILITY  
20 PROGRAM DESCRIBED IN [SECTION 1].

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22 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
23 integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 1].

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25 **NEW SECTION. SECTION 5. EFFECTIVE DATE -- CONTINGENT EFFECTIVE DATE.** (1) EXCEPT AS PROVIDED IN  
26 SUBSECTION (2), [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

27 (2) [SECTION 1] IS EFFECTIVE ON THE DATE THAT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND  
28 HUMAN SERVICES CERTIFIES TO THE CODE COMMISSIONER THAT THE CENTERS FOR MEDICARE AND MEDICAID SERVICES

1 HAS APPROVED THE APPROPRIATE SECTION 1115 WAIVER APPLICATION, SECTION 1115 WAIVER AMENDMENT, SECTION  
2 1915(K) STATE PLAN AMENDMENT, OR OTHER STATE PLAN AMENDMENT TO IMPLEMENT [SECTION 1]. THE DIRECTOR  
3 SHALL SUBMIT CERTIFICATION WITHIN 7 DAYS OF THE OCCURRENCE OF THE CONTINGENCY.

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