

IN THE SENATE

SENATE BILL NO. 1204, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MEDICAID; AMENDING SECTION 56-253, IDAHO CODE, TO PROVIDE THAT
2 A HEALTH RISK ASSESSMENT SHALL INCLUDE QUESTIONS RELATING TO SUBSTANCE
3 USE DISORDERS, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF HEALTH
4 AND WELFARE SHALL CONDUCT CERTAIN RESEARCH AND SEEK CERTAIN WAIVERS,
5 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-267, IDAHO
6 CODE, TO PROVIDE THAT ELIGIBILITY FOR MEDICAID SHALL NOT BE DELAYED
7 FOR WAIVER CONSIDERATION, NEGOTIATION, OR APPROVAL, TO PROVIDE THAT
8 A WAIVER SHALL NOT BE IMPLEMENTED IF IT WOULD RESULT IN A REDUCTION IN
9 FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN PERSONS, TO PROVIDE THAT
10 THE LEGISLATURE MAY DECLARE THE SECTION TO BE NULL, VOID, AND OF NO FORCE
11 AND EFFECT UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR CERTAIN REVIEWS
12 AND RECOMMENDATIONS, TO PROVIDE THAT PERSONS PARTICIPATING IN MEDICAID
13 PURSUANT TO THE SECTION BE PLACED IN MANAGED CARE TO THE EXTENT POSSI-
14 BLE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-263, IDAHO
15 CODE, TO PROVIDE THAT THE DEPARTMENT SHALL SEEK CERTAIN APPROVAL OR A
16 WAIVER AND TO PROVIDE APPLICABILITY; PROVIDING FOR THE APPOINTMENT OF A
17 TASK FORCE; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.
18

19 Be It Enacted by the Legislature of the State of Idaho:

20 SECTION 1. That Section 56-253, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 56-253. POWERS AND DUTIES OF THE DIRECTOR. (1) The director is hereby
23 encouraged and empowered to obtain federal approval in order that Idaho de-
24 sign and implement changes to its medicaid program that advance the qual-
25 ity of services to participants while allowing access to needed services and
26 containing excessive costs. The design of Idaho's medicaid program shall
27 incorporate the concepts expressed in section 56-251, Idaho Code.

28 (2) The director may create health-need categories other than those
29 stated in section 56-251(2)(a), Idaho Code, subject to legislative ap-
30 proval, and may develop a medicaid benchmark plan for each category.

31 (3) Each benchmark plan shall include explicit policy goals for the
32 covered population identified in the plan, as well as specific benefit pack-
33 ages, delivery system components and performance measures in accordance
34 with section 67-1904, Idaho Code.

35 (4) The director shall establish a mechanism to ensure placement of
36 participants into the appropriate benchmark plan as allowed under section
37 6044 of the deficit reduction act of 2005. This mechanism shall include,
38 but not be limited to, a health risk assessment. This assessment shall com-
39 ply with federal requirements for early and periodic screening, diagnosis
40 and treatment (EPSDT) services for children, in accordance with section
41 1905(a)(4)(B) of the social security act. The health risk assessment shall

1 include questions related to substance use disorders to allow referral to
2 treatment for such disorders by the department.

3 (5) The director may require, subject to federal approval, partici-
4 pants to designate a medical home. Applicants for medical assistance shall
5 receive information about primary care case management, and, if required to
6 so designate, shall select a primary care provider as part of the eligibility
7 determination process.

8 (6) The director may, subject to federal approval, enter into contracts
9 for medical and other services when such contracts are beneficial to partici-
10 ipant health outcomes as well as economically prudent for the medicaid pro-
11 gram.

12 (7) The director may obtain agreements from medicare, school districts
13 and other entities to provide medical care if it is practical and cost-effec-
14 tive.

15 (8) The director shall research options and apply for federal waivers
16 to enable cost-efficient use of medicaid funds to pay for substance abuse
17 and/or mental health services in institutions for mental disease.

18 (9) The director shall, in cooperation with the director of the depart-
19 ment of insurance, seek waivers from the federal government to provide the
20 ability to receive, at a person's option, if such person is eligible for med-
21 icaid pursuant to section 56-267, Idaho Code, and has a modified adjusted
22 gross income at one hundred percent (100%) of the federal poverty level or
23 greater, the advance premium tax credit to purchase a qualified health plan
24 through the Idaho health insurance exchange established by chapter 61, title
25 41, Idaho Code, as an alternative to enrolling in medicaid.

26 (10) The director shall seek a waiver from the federal government con-
27 sistent with the provisions of this subsection.

28 (a) A person participating in medicaid pursuant to section 56-267,
29 Idaho Code, must be:

30 (i) Working at least twenty (20) hours per week, averaged
31 monthly, or earning wages equal to or greater than the federal min-
32 imum wage for twenty (20) hours of work per week;

33 (ii) Participating in and complying with the requirements of a
34 work training program at least twenty (20) hours per week, as de-
35 termined by the department;

36 (iii) Volunteering at least twenty (20) hours per week, as deter-
37 mined by the department;

38 (iv) Enrolled at least half-time in postsecondary education or
39 another recognized education program, as determined by the de-
40 partment, and remaining enrolled and attending classes during
41 normal class cycles;

42 (v) Meeting any combination of working, volunteering, and par-
43 ticipating in a work program for a total of at least twenty (20)
44 hours per week, as determined by the department; or

45 (vi) Subject to and complying with the requirements of the work
46 program for temporary assistance for needy families (TANF) or par-
47 ticipating and complying with the requirements of a workfare pro-
48 gram in the supplemental nutrition assistance program (SNAP).

49 (b) A person is exempt from the provisions of paragraph (a) of this sub-
50 section if the person is:

- 1 (i) Under the age of nineteen (19) years;
 2 (ii) Over the age of fifty-nine (59) years;
 3 (iii) Physically or intellectually unfit for employment;
 4 (iv) Pregnant;
 5 (v) A parent or caretaker who is the primary caregiver of a depen-
 6 dent child under the age of eighteen (18) years, as determined by
 7 the department;
 8 (vi) A parent or caretaker personally providing care for a per-
 9 son with serious medical conditions or with a disability, as de-
 10 termined by the department;
 11 (vii) Applying for or receiving unemployment compensation and
 12 complying with work requirements that are part of the fed-
 13 eral-state unemployment insurance program;
 14 (viii) Applying for social security disability benefits, until
 15 such time eligibility is determined;
 16 (ix) Participating in a drug addiction or alcohol treatment and
 17 rehabilitation program, as determined by the department; or
 18 (x) An American Indian or Alaska native who is eligible for ser-
 19 vices through the Indian health service or through a tribal health
 20 program pursuant to the Indian self-determination and education
 21 assistance act and the Indian health care improvement act.

22 (c) A person who fails to comply with paragraph (a) of this subsection
 23 shall be subject to a copayment on covered medicaid services to the max-
 24 imum extent permissible for a period of six (6) months or until the per-
 25 son complies with paragraph (a) of this subsection, whichever is ear-
 26 lier.

27 (d) Compliance reporting required for persons subject to paragraph
 28 (a) of this subsection shall be consistent with compliance reporting
 29 requirements for persons participating in a SNAP workfare program.

30 (e) The department shall implement the waiver described in this subsec-
 31 tion as soon as possible once federal approval has been obtained.

32 (11) The director is given authority to promulgate rules consistent
 33 with this act.

34 SECTION 2. That Section 56-267, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 56-267. MEDICAID ELIGIBILITY EXPANSION. (1) Notwithstanding any pro-
 37 vision of law or federal waiver to the contrary, the state shall amend its
 38 state plan to expand ~~M~~medicaid eligibility to include those persons under
 39 sixty-five (65) years of age whose modified adjusted gross income is one hun-
 40 dred thirty-three percent (133%) of the federal poverty level or below and
 41 who are not otherwise eligible for any other coverage under the state plan,
 42 in accordance with sections 1902(a)(10)(A)(i)(VIII) and 1902(e)(14) of the
 43 ~~S~~social ~~S~~security ~~A~~act.

44 (2) No later than ninety (90) days after approval of this act, the
 45 department shall submit any necessary state plan amendments to the United
 46 States ~~D~~department of ~~H~~health and ~~H~~human ~~S~~services, ~~C~~centers for ~~M~~medicare
 47 and ~~M~~medicaid ~~S~~services to implement the provisions of this section. The
 48 department is required and authorized to take all actions necessary to im-
 49 plement the provisions of this section as soon as practicable.

1 (3) Eligibility for medicaid as described in this section shall not be
 2 delayed if the centers for medicare and medicaid services fail to approve any
 3 waivers of the state plan for which the department applies, nor shall such
 4 eligibility be delayed while the department is considering or negotiating
 5 any waivers to the state plan. The department shall not implement any waiver
 6 that would result in a reduction in federal financial participation for per-
 7 sons identified in subsection (1) of this section below the ninety percent
 8 (90%) commitment described in section 1905(y) of the social security act.

9 (4) If section 1905(y) of the social security act is held unlawful or
 10 unconstitutional by the United States supreme court, then the legislature
 11 may declare this section to be null, void, and of no force and effect.

12 (5) If federal financial participation for persons identified in sub-
 13 section (1) of this section is reduced below the ninety percent (90%) commit-
 14 ment described in section 1905(y) of the social security act, then the senate
 15 and house of representatives health and welfare committees shall, as soon as
 16 practicable, review the effects of such reduction and make a recommendation
 17 to the legislature as to whether medicaid eligibility expansion should re-
 18 main in effect. The review and recommendation described in this subsection
 19 shall be conducted by the date of adjournment of the regular legislative ses-
 20 sion following the date of reduction in federal financial participation.

21 (6) The department:

22 (a) Shall place all persons participating in medicaid pursuant to
 23 this section in a care management program authorized under section
 24 56-265(5), Idaho Code, or in another managed care program to improve the
 25 quality of their care, to the extent possible; and

26 (b) Is authorized to seek any federal approval necessary to implement
 27 the provisions of this subsection.

28 (7) No later than January 31 in the 2023 legislative session, the sen-
 29 ate and house of representatives health and welfare committees shall review
 30 all fiscal, health, and other impacts of medicaid eligibility expansion pur-
 31 suant to this section and shall make a recommendation to the legislature as
 32 to whether such expansion should remain in effect.

33 SECTION 3. That Section 56-263, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 56-263. MEDICAID MANAGED CARE PLAN. (1) The department shall present
 36 to the legislature on the first day of the second session of the sixty-first
 37 Idaho legislature a plan for medicaid managed care with focus on high-cost
 38 populations including, but not limited to:

39 (a) Dual eligibles; and

40 (b) High-risk pregnancies.

41 (2) The medicaid managed care plan shall include, but not be limited to,
 42 the following elements:

43 (a) Improved coordination of care through primary care medical homes.

44 (b) Approaches that improve coordination and provide case management
 45 for high-risk, high-cost disabled adults and children that reduce costs
 46 and improve health outcomes, including mandatory enrollment in special
 47 needs plans, and that consider other managed care approaches.

48 (c) Managed care contracts to pay for behavioral health benefits as de-
 49 scribed in executive order number 2011-01 and in any implementing leg-

1 islation. At a minimum, the system should include independent, stan-
 2 dardized, statewide assessment and evidence-based benefits provided by
 3 businesses that meet national accreditation standards.

4 (d) The elimination of duplicative practices that result in unneces-
 5 sary utilization and costs.

6 (e) Contracts based on gain sharing, risk-sharing or a capitated basis.

7 (f) Medical home development with focus on populations with chronic
 8 disease using a tiered case management fee.

9 (3) The department shall seek federal approval or a waiver to require
 10 that a medicaid participant who has a medical home as required in section
 11 56-255(5) (b), Idaho Code, and who seeks family planning services or supplies
 12 from a provider outside the participant's medical home, must have a referral
 13 to such outside provider. The provisions of this subsection shall apply to
 14 medicaid participants upon such approval or the granting of such a waiver.

15 SECTION 4. TASK FORCE. (1) The 2019 Legislative Council shall appoint a
 16 bipartisan task force to undertake and complete a study of the impact of Med-
 17 icaid eligibility expansion on the financial obligation of counties and the
 18 state to provide indigent medical assistance. The Legislative Council shall
 19 determine the number of legislators and membership from each house appointed
 20 to the task force and shall authorize the task force to receive input, ad-
 21 vice, and assistance from interested and affected parties who are not mem-
 22 bers of the Legislature. Nonlegislative members of the task force shall be
 23 appointed by the cochairs of the task force who are appointed by the Legisla-
 24 tive Council and shall include, but are not limited to, a person represent-
 25 ing the Department of Health and Welfare, a person representing the Idaho
 26 Association of Counties, and a person representing the health care profes-
 27 sions. Nonlegislative members of the task force shall not be reimbursed from
 28 legislative funds for per diem, mileage, or other expenses. The task force
 29 shall evaluate the effectiveness of Medicaid eligibility expansion and its
 30 impact on the financial obligation of the counties and the state in providing
 31 indigent assistance including, but not limited to:

32 (a) The county indigent program and how to leverage savings, if any, re-
 33 sulting from Medicaid eligibility expansion;

34 (b) The catastrophic health care cost program and how to leverage sav-
 35 ings, if any, resulting from Medicaid eligibility expansion;

36 (c) The impact of Medicaid eligibility expansion on the obligation of
 37 counties to provide assistance for involuntary mental health commit-
 38 ments pursuant to chapter 3, title 66, Idaho Code; and

39 (d) The county charity levy and how to use the levy to pay for the
 40 remaining county nonmedical indigent obligations including, but not
 41 limited to, public defense, indigent burials, jail medical, and other
 42 criminal justice and mental health-related services.

43 (2) Upon concluding its study, the task force shall reports its find-
 44 ings and recommendations to the Legislature and the Governor.

45 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
 46 to be severable and if any provision of this act or the application of such
 47 provision to any person or circumstance is declared invalid for any reason,
 48 such declaration shall not affect the validity of the remaining portions of
 49 this act.

1 SECTION 6. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.