

IN THE SENATE

SENATE BILL NO. 1204, As Amended, As Amended in the House

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 SHALL DECLARE THE SECTION TO BE NULL, VOID, AND OF NO  
11 FORCE AND EFFECT UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR CERTAIN  
12 REVIEWS AND RECOMMENDATIONS, TO PROVIDE THAT PERSONS PARTICIPATING IN  
13 MEDICAID PURSUANT TO THE SECTION BE PLACED IN MANAGED CARE TO THE EXTENT  
14 POSSIBLE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-263,  
15 IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL SEEK CERTAIN APPROVAL  
16 OR A WAIVER AND TO PROVIDE APPLICABILITY; PROVIDING FOR THE APPOINTMENT  
17 OF A 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 that  
20 persons eligible for medicaid pursuant to section 56-267, Idaho Code, who  
21 have a modified adjusted gross income at or above one hundred percent (100%)  
22 of the federal poverty level shall receive the advance premium tax credit to  
23 purchase a qualified health plan through the Idaho health insurance exchange  
24 established by chapter 61, title 41, Idaho Code, instead of enrolling in med-  
25 icaid, except as provided in paragraph (a) of this subsection.

26 (a) A person described in this subsection may choose to enroll in med-  
27 icaid instead of receiving the advance premium tax credit to purchase a  
28 qualified health plan.

29 (b) If the waivers described in this subsection are not approved before  
30 January 1, 2020, then the persons described in this subsection shall be  
31 enrolled in medicaid.

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

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

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

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

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

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

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

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

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

7           (i) Under the age of nineteen (19) years;

8           (ii) Over the age of fifty-nine (59) years;

9           (iii) Physically or intellectually unable to work;

10          (iv) Pregnant;

11          (v) A parent or caretaker who is the primary caregiver of a depen-  
 12          dent child under the age of eighteen (18) years, as determined by  
 13          the department;

14          (vi) A parent or caretaker personally providing care for a per-  
 15          son with serious medical conditions or with a disability, as de-  
 16          termined by the department;

17          (vii) Applying for or receiving unemployment compensation and  
 18          complying with work requirements that are part of the fed-  
 19          eral-state unemployment insurance program;

20          (viii) Applying for social security disability benefits, until  
 21          such time eligibility is determined;

22          (ix) Participating in a drug addiction or alcohol treatment and  
 23          rehabilitation program, as determined by the department; or

24          (x) An American Indian or Alaska native who is eligible for ser-  
 25          vices through the Indian health service or through a tribal health  
 26          program pursuant to the Indian self-determination and education  
 27          assistance act and the Indian health care improvement act.

28          (c) The department shall verify a medicaid participant's compliance  
 29          with paragraph (a) of this subsection every six (6) months and shall  
 30          promulgate rules based on federal final waiver approval relating to  
 31          the requirements of this subsection. A person who fails to comply with  
 32          paragraph (a) of this subsection shall:

33          (i) Be ineligible for medicaid but may reapply for medicaid two  
 34          (2) months after such determination is made or earlier if in com-  
 35          pliance; or

36          (ii) If the provisions of subparagraph (i) of this paragraph are  
 37          not federally approved or are found unlawful by a court of compe-  
 38          tent jurisdiction, be subject to the maximum allowable copayments  
 39          on covered Idaho medicaid services for a period of six (6) months  
 40          or until the person complies with paragraph (a) of this subsec-  
 41          tion, whichever is earlier.

42          (d) It is the intent of the legislature, in enacting the requirements of  
 43          this subsection, to enable coverage of medicaid participants while also  
 44          promoting the participants' health and financial independence.

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

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

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

1 56-267. MEDICAID ELIGIBILITY EXPANSION. (1) Notwithstanding any pro-  
 2 vision of law or federal waiver to the contrary, the state shall amend its  
 3 state plan to expand Medicaid eligibility to include those persons under  
 4 sixty-five (65) years of age whose modified adjusted gross income is one hun-  
 5 dred thirty-three percent (133%) of the federal poverty level or below and  
 6 who are not otherwise eligible for any other coverage under the state plan,  
 7 in accordance with sections 1902(a)(10)(A)(i)(VIII) and 1902(e)(14) of the  
 8 Social Security Act.

9 (2) No later than ninety (90) days after approval of this act, the  
 10 department shall submit any necessary state plan amendments to the United  
 11 States Department of Health and Human Services, Centers for Medicare  
 12 and Medicaid Services to implement the provisions of this section. The  
 13 department is required and authorized to take all actions necessary to im-  
 14 plement the provisions of this section as soon as practicable.

15 (3) Eligibility for Medicaid as described in this section shall not be  
 16 delayed if the centers for Medicare and Medicaid Services fail to approve any  
 17 waivers of the state plan for which the department applies, nor shall such  
 18 eligibility be delayed while the department is considering or negotiating  
 19 any waivers to the state plan. The department shall not implement any waiver  
 20 that would result in a reduction in federal financial participation for per-  
 21 sons identified in subsection (1) of this section below the ninety percent  
 22 (90%) commitment described in section 1905(y) of the Social Security Act.

23 (4) If section 1905(y) of the Social Security Act is held unlawful or  
 24 unconstitutional by the United States Supreme Court, then the legislature  
 25 shall declare this section to be null, void, and of no force and effect.

26 (5) If federal financial participation for persons identified in sub-  
 27 section (1) of this section is reduced below the ninety percent (90%) com-  
 28 mitment described in section 1905(y) of the Social Security Act, then the Senate  
 29 and House of Representatives Health and Welfare Committees shall, as soon as  
 30 practicable, review the effects of such reduction and make a recommendation  
 31 to the legislature as to whether Medicaid eligibility expansion should re-  
 32 main in effect. The review and recommendation described in this subsection  
 33 shall be conducted by the date of adjournment of the regular legislative ses-  
 34 sion following the date of reduction in federal financial participation.

35 (6) The department:

36 (a) Shall place all persons participating in Medicaid pursuant to  
 37 this section in a care management program authorized under section  
 38 56-265(5), Idaho Code, or in another managed care program to improve the  
 39 quality of their care, to the extent possible; and

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

42 (7) No later than January 31 in the 2023 legislative session, the Sen-  
 43 ate and House of Representatives Health and Welfare Committees shall review  
 44 all fiscal, health, and other impacts of Medicaid eligibility expansion pur-  
 45 suant to this section and shall make a recommendation to the legislature as  
 46 to whether such expansion should remain in effect.

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

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

- 5           (a) Dual eligibles; and
- 6           (b) High-risk pregnancies.

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

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

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

14          (c) Managed care contracts to pay for behavioral health benefits as de-  
15 scribed in executive order number 2011-01 and in any implementing leg-  
16 islation. At a minimum, the system should include independent, stan-  
17 dardized, statewide assessment and evidence-based benefits provided by  
18 businesses that meet national accreditation standards.

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

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

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

24          (3) The department shall seek federal approval or a waiver to require  
25 that a medicaid participant who has a medical home as required in section  
26 56-255(5) (b), Idaho Code, and who seeks family planning services or supplies  
27 from a provider outside the participant's medical home, must have a referral  
28 to such outside provider. The provisions of this subsection shall apply to  
29 medicaid participants upon such approval or the granting of such a waiver.

30           SECTION 4. TASK FORCE. (1) The 2019 Legislative Council shall appoint a  
31 bipartisan task force to undertake and complete a study of the impact of Med-  
32 icaid eligibility expansion on the financial obligation of counties and the  
33 state to provide indigent medical assistance. The Legislative Council shall  
34 determine the number of legislators and membership from each house appointed  
35 to the task force and shall authorize the task force to receive input, ad-  
36 vice, and assistance from interested and affected parties who are not mem-  
37 bers of the Legislature. Nonlegislative members of the task force shall be  
38 appointed by the cochairs of the task force who are appointed by the Legisla-  
39 tive Council and shall include, but are not limited to, a person represent-  
40 ing the Department of Health and Welfare, a person representing the Idaho  
41 Association of Counties, and a person representing the health care profes-  
42 sions. Nonlegislative members of the task force shall not be reimbursed from  
43 legislative funds for per diem, mileage, or other expenses. The task force  
44 shall evaluate the effectiveness of Medicaid eligibility expansion and its  
45 impact on the financial obligation of the counties and the state in providing  
46 indigent assistance including, but not limited to:

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

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

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

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

8 (2) Upon concluding its study, the task force shall report its findings  
9 and recommendations to the Legislature and the Governor.

10 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared  
11 to be severable and if any provision of this act or the application of such  
12 provision to any person or circumstance is declared invalid for any reason,  
13 such declaration shall not affect the validity of the remaining portions of  
14 this act.

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