

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 464

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH CARE; AMENDING CHAPTER 52, TITLE 41, IDAHO CODE, BY THE  
2 ADDITION OF A NEW SECTION 41-5213, IDAHO CODE, TO AUTHORIZE APPLICATION  
3 FOR AND IMPLEMENTATION OF A STATE INNOVATION WAIVER; AMENDING SECTION  
4 41-5503, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF THE  
5 IDAHO INDIVIDUAL HIGH RISK REINSURANCE POOL SHALL TAKE CERTAIN ACTION;  
6 AMENDING SECTION 56-254, IDAHO CODE, TO PROVIDE MEDICAL ASSISTANCE ELI-  
7 GIBILITY FOR CERTAIN INDIVIDUALS CONTINGENT ON FEDERAL APPROVAL AND TO  
8 MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 56-257, IDAHO CODE, TO  
9 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH AND WELFARE SHALL ESTABLISH  
10 PREMIUMS AND WORK REQUIREMENTS SUBJECT TO THE TERMS OF OR UPON APPROVAL  
11 OF CERTAIN WAIVERS.  
12

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

14 SECTION 1. That Chapter 52, Title 41, Idaho Code, be, and the same is  
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
16 ignated as Section 41-5213, Idaho Code, and to read as follows:

17 41-5213. AUTHORITY TO APPLY FOR STATE INNOVATION WAIVER. The director  
18 may apply to the United States secretary of health and human services under  
19 42 U.S.C. 18052 for a waiver of applicable provisions of the patient pro-  
20 tection and affordable care act, Public Law 111-148, with respect to health  
21 insurance coverage subject to the provisions of this chapter. Contingent on  
22 federal approval of a state innovation waiver that provides United States  
23 citizens who are ineligible for medicaid equal access to the premium tax  
24 credit as legal noncitizens, the department of insurance, department of  
25 health and welfare and the Idaho health insurance exchange have authority to  
26 implement the state's plan for the state innovation waiver. If the federal  
27 department of health and human services denies Idaho's state innovation  
28 waiver, the authority to implement such waiver will sunset on July 1, 2019.

29 SECTION 2. That Section 41-5503, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 41-5503. PLAN OF OPERATION. (1) The board shall submit to the direc-  
32 tor a plan of operation and thereafter any amendments thereto necessary or  
33 suitable to assure the fair, reasonable and equitable administration of the  
34 pool. The director may, after notice and hearing, approve the plan of opera-  
35 tion if the director determines it to be suitable to assure the fair, reason-  
36 able and equitable administration of the pool, and to provide for the sharing  
37 of pool gains or losses on an equitable and proportionate basis in accordance  
38 with the provisions of this chapter. The plan of operation shall become ef-  
39 fective upon written approval by the director.

1 (2) If the board fails to submit a suitable plan of operation, the di-  
 2 rector shall, after notice and hearing, adopt and promulgate a temporary  
 3 plan of operation. The director shall approve the plan of operation submit-  
 4 ted by the board, or adopt a temporary plan of operation if the board fails to  
 5 submit a suitable plan. The director shall amend or rescind any plan adopted  
 6 under the provisions of this section at the time a plan of operation is sub-  
 7 mitted by the board and approved by the director.

8 (3) The plan of operation shall:

9 (a) Establish procedures for handling and accounting of pool assets and  
 10 moneys and for an annual fiscal reporting to the director;

11 (b) Establish procedures for selecting an administrator, and setting  
 12 forth the powers and duties of the administrator;

13 (c) Establish procedures for reinsuring risks in accordance with the  
 14 provisions of this chapter;

15 (d) Establish procedures and conditions for a carrier to cede individu-  
 16 als with certain high risk medical conditions;

17 (e) Define the high risk medical conditions for which carriers are al-  
 18 lowed to cede for reinsurance;

19 (f) Set forth the reinsurance parameters including, but not limited  
 20 to, the initial level of claims for which the reinsuring carrier is  
 21 responsible, the coinsurance percentage at which claims above the ini-  
 22 tial level are reinsured by the pool, and the maximum claims limit above  
 23 which the pool no longer reimburses;

24 (g) Establish procedures for collecting assessments from carriers to  
 25 fund claims and administrative expenses incurred or estimated to be in-  
 26 curred by the pool; and

27 (h) Provide for any additional matters necessary for the implementa-  
 28 tion and administration of the pool.

29 (4) Contingent on approval of a waiver of applicable provisions of the  
 30 patient protection and affordable care act, Public Law 111-148, the board  
 31 shall review the plan of operation to identify changes to paragraphs (c)  
 32 through (f) of subsection (3) of this section necessary to better serve  
 33 Idahoans enrolled in individual health benefit plans and to stabilize the  
 34 individual health insurance market. The board shall submit recommended  
 35 changes to the director for approval.

36 SECTION 3. That Section 56-254, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. The department shall make  
 39 payments for medical assistance to, or on behalf of, the following persons  
 40 eligible for medical assistance.

41 (1) The benchmark plan for low-income children and working-age adults  
 42 with no special health needs includes the following persons:

43 (a) Children in families whose family income does not exceed one hun-  
 44 dred eighty-five percent (185%) of the federal poverty guideline and  
 45 who meet age-related and other eligibility standards in accordance with  
 46 department rule;

47 (b) Pregnant women of any age whose family income does not exceed one  
 48 hundred thirty-three percent (133%) of the federal poverty guideline  
 49 and who meet other eligibility standards in accordance with department

1 rule, or who meet the presumptive eligibility guidelines in accordance  
2 with section 1920 of the social security act;

3 (c) Infants born to medicaid-eligible pregnant women. Medicaid eligi-  
4 bility must be offered throughout the first year of life as long as the  
5 infant remains in the mother's household and she remains eligible, or  
6 would be eligible if she were still pregnant;

7 (d) Adults in families with dependent children, as described in sec-  
8 tion 1931 of the social security act, who meet the requirements in the  
9 state's assistance to families with dependent children (AFDC) plan in  
10 effect on July 16, 1996;

11 (e) Families who are provided six (6) to twelve (12) months of medicaid  
12 coverage following loss of eligibility under section 1931 of the social  
13 security act due to earnings, or four (4) months of medicaid coverage  
14 following loss of eligibility under section 1931 of the social security  
15 act due to an increase in child or spousal support;

16 (f) Employees of small businesses who meet the definition of "eligible  
17 adult" as described in section 56-238, Idaho Code, whose eligibility is  
18 limited to the medical assistance program described in section 56-241,  
19 Idaho Code;

20 (g) All other mandatory groups as defined in title XIX of the social se-  
21 curity act, if not listed separately in subsection (2) or (3) of this  
22 section.

23 (2) The benchmark plan for persons with disabilities or special health  
24 needs includes the following persons:

25 (a) Persons under age sixty-five (65) years eligible in accordance with  
26 title XVI of the social security act, as well as persons eligible for aid  
27 to the aged, blind and disabled (AABD) under titles I, X and XIV of the  
28 social security act;

29 (b) Persons under age sixty-five (65) years who are in need of the ser-  
30 vices of a licensed nursing facility, a licensed intermediate care fa-  
31 cility for the developmentally disabled, a state mental hospital, or  
32 home-based and community-based care, whose income does not exceed three  
33 hundred percent (300%) of the social security income (SSI) standard and  
34 who meet the asset standards and other eligibility standards in accor-  
35 dance with federal law and regulation, Idaho law and department rule;

36 (c) Certain disabled children described in 42 CFR 435.225 who meet re-  
37 source limits for aid to the aged, blind and disabled (AABD) and income  
38 limits for social security income (SSI) and other eligibility standards  
39 in accordance with department rules;

40 (d) Persons under age sixty-five (65) years who are eligible for ser-  
41 vices under both titles XVIII and XIX of the social security act;

42 (e) Children who are eligible under title IV-E of the social security  
43 act for subsidized board payments, foster care or adoption subsidies,  
44 and children for whom the state has assumed temporary or permanent re-  
45 sponsibility and who do not qualify for title IV-E assistance but are in  
46 foster care, shelter or emergency shelter care, or subsidized adoption,  
47 and who meet eligibility standards in accordance with department rule;

48 (f) Eligible women under age sixty-five (65) years with incomes at or  
49 below two hundred percent (200%) of the federal poverty level, for can-

1 cer treatment pursuant to the federal breast and cervical cancer pre-  
2 vention and treatment act of 2000;

3 (g) Low-income children and working-age adults under age sixty-five  
4 (65) years who qualify under subsection (1) of this section and who  
5 require the services for persons with disabilities or special health  
6 needs listed in section 56-255(3), Idaho Code;

7 (h) Persons over age sixty-five (65) years who choose to enroll in this  
8 state plan; ~~and~~

9 (i) Effective January 1, 2018, children under age eighteen (18) years  
10 with serious emotional disturbance, as defined in section 16-2403,  
11 Idaho Code, in families whose income does not exceed three hundred  
12 percent (300%) of the federal poverty guideline and who meet other eli-  
13 gibility standards in accordance with department rule; and

14 (j) Effective as soon as federal approval for coverage can be obtained,  
15 persons with costly and complex medical conditions in accordance with  
16 the approved waiver who:

17 (i) Are under the age of sixty-five (65) years;

18 (ii) Have incomes less than the maximum allowable level for feder-  
19 ally supported advance premium tax credits;

20 (iii) Are not eligible for other coverage under this chapter; and

21 (iv) Do not have access to affordable employer-sponsored coverage  
22 as defined in 26 CFR 1.36B.

23 (3) The benchmark plan for persons over twenty-one (21) years of age who  
24 have medicare and medicaid coverage includes the following persons:

25 (a) Persons eligible in accordance with title XVI of the social secu-  
26 rity act, as well as persons eligible for aid to the aged, blind and dis-  
27 abled (AABD) under titles I, X and XIV of the social security act;

28 (b) Persons who are in need of the services of a licensed nursing fa-  
29 cility, a licensed intermediate care facility for the developmentally  
30 disabled, a state mental hospital, or home-based and community-based  
31 care, whose income does not exceed three hundred percent (300%) of the  
32 social security income (SSI) standard and who meet the assets standards  
33 and other eligibility standards in accordance with federal and state  
34 law and department rule;

35 (c) Persons who are eligible for services under both titles XVIII and  
36 XIX of the social security act who have enrolled in the medicare pro-  
37 gram; and

38 (d) Persons who are eligible for services under both titles XVIII and  
39 XIX of the social security act and who elect to enroll in this state  
40 plan.

41 SECTION 4. That Section 56-257, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 56-257. COPAYMENTS -- PREMIUMS -- WORK REQUIREMENTS. (1) Within the  
44 limits of federal medicaid law and regulations, the department of health and  
45 welfare shall establish enforceable cost sharing in order to increase the  
46 awareness and responsibility of medicaid participants for the cost of their  
47 health care and to encourage use of cost-effective care in the most appropri-  
48 ate setting. Copayments established by department rule may include, but not  
49 be limited to, the following:

1 (a) Medicaid services including, but not limited to, chiropractic vis-  
2 its, podiatrist visits, optometrist visits, physical therapy visits,  
3 occupational therapy visits, speech therapy visits, outpatient hospi-  
4 tal visits and physician office visits;

5 (b) Inappropriate use of emergency medicaid reimbursed services, in-  
6 cluding hospital emergency room and emergency transportation; and

7 (c) Missed appointments with health care providers when it is the prac-  
8 tice of the health care provider to charge such copayments to all of  
9 their patients regardless of payer.

10 (2) The director may exempt, subject to federal approval, any group of  
11 medicaid participants from the cost-sharing provisions in this section.

12 (3) In accordance with federal medicaid law and regulations, and sub-  
13 ject to the terms of any waivers granted by the federal centers for medicare  
14 and medicaid services, the department of health and welfare will establish  
15 premiums for medicaid participants described in section 56-254 (2) (j), Idaho  
16 Code.

17 (4) The department shall seek a waiver to establish work requirements  
18 for able-bodied adult medicaid participants, which requirements shall be  
19 consistent with the work requirements in the supplemental nutrition assis-  
20 tance program and the temporary assistance for families in Idaho program.  
21 Upon approval of the waiver, the department shall establish such require-  
22 ments.