

IN THE SENATE

SENATE BILL NO. 1204

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 SUB-
3 STANCE USE DISORDERS, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF
4 HEALTH AND WELFARE SHALL CONDUCT CERTAIN RESEARCH AND APPLY FOR CERTAIN
5 WAIVERS, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-254,
6 IDAHO CODE, TO REVISE PROVISIONS REGARDING ELIGIBILITY FOR MEDICAL
7 ASSISTANCE AND TO PROVIDE FOR NOTIFICATION REGARDING OPPORTUNITIES
8 TO ENROLL IN AN EMPLOYMENT AND TRAINING PROGRAM; AMENDING SECTION
9 56-255, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SEC-
10 TION 56-267, IDAHO CODE, TO PROVIDE THAT ELIGIBILITY FOR MEDICAID SHALL
11 NOT BE DELAYED FOR WAIVER CONSIDERATION, NEGOTIATION, OR APPROVAL, TO
12 PROVIDE THAT THE LEGISLATURE MAY DECLARE THE SECTION TO BE NULL, VOID,
13 AND OF NO FORCE AND EFFECT UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR
14 A CERTAIN REVIEW, AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING FOR THE
15 APPOINTMENT OF A TASK FORCE; AND PROVIDING SEVERABILITY.
16

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

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

20 56-253. POWERS AND DUTIES OF THE DIRECTOR. (1) The director is hereby
21 encouraged and empowered to obtain federal approval in order that Idaho de-
22 sign and implement changes to its medicaid program that advance the qual-
23 ity of services to participants while allowing access to needed services and
24 containing excessive costs. The design of Idaho's medicaid program shall
25 incorporate the concepts expressed in section 56-251, Idaho Code.

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

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

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

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

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

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

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

16 (9) The director is given authority to promulgate rules consistent with
 17 this act.

18 SECTION 2. That Section 56-254, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. (1) The department shall
 21 make payments for medical assistance to, or on behalf of, ~~the following~~ per-
 22 sons eligible for medical assistance.

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

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

29 (b) Pregnant women of any age whose family income does not exceed one
 30 hundred thirty-three percent (133%) of the federal poverty guideline
 31 and who meet other eligibility standards in accordance with department
 32 rule, or who meet the presumptive eligibility guidelines in accordance
 33 with section 1920 of the social security act;

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

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

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

47 (f) Employees of small businesses who meet the definition of "eligible
 48 adult" as described in section 56-238, Idaho Code, whose eligibility is

1 limited to the medical assistance program described in section 56-241,
2 Idaho Code;

3 (g) All other mandatory groups as defined in title XIX of the social se-
4 curity act, if not listed separately in subsection (23) or (34) of this
5 section.

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

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

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

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

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

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

31 (f) Eligible women under age sixty-five (65) years with incomes at or
32 below two hundred percent (200%) of the federal poverty level, for can-
33 cer treatment pursuant to the federal breast and cervical cancer pre-
34 vention and treatment act of 2000;

35 (g) Low-income children and working-age adults under age sixty-five
36 (65) years who qualify under subsection (12) of this section and who
37 require the services for persons with disabilities or special health
38 needs listed in section 56-255(3), Idaho Code;

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

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

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

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

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

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

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

14 (5) The department of health and welfare shall notify all adult medic-
 15 aid participants of the employment and training program and provide oppor-
 16 tunities for participants to enroll in the program to create pathways to em-
 17 ployment in their communities, including access to job search, career coach-
 18 ing, job training, and educational opportunities.

19 SECTION 3. That Section 56-255, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1)
 22 The department may make payments for the following services furnished by
 23 providers to participants who are determined to be eligible on the dates
 24 on which the services were provided. Any service under this section shall
 25 be reimbursed only when medically necessary within the appropriations pro-
 26 vided by law and in accordance with federal law and regulation, Idaho law and
 27 department rule. Notwithstanding any other provision of this chapter, medi-
 28 cal assistance includes the following benefits specific to the eligibility
 29 categories established in section 56-254(~~2~~), (~~23~~) and (~~34~~), Idaho Code,
 30 as well as a list of benefits to which all Idaho medicaid participants are
 31 entitled, defined in subsection (5) of this section.

32 (2) Specific health benefits and limitations for low-income children
 33 and working-age adults with no special health needs include:

34 (a) All services described in subsection (5) of this section;

35 (b) Early and periodic screening, diagnosis and treatment services for
 36 individuals under age twenty-one (21) years, and treatment of condi-
 37 tions found; and

38 (c) Cost-sharing required of participants. Participants in the low-
 39 income children and working-age adult group are subject to the follow-
 40 ing premium payments, as stated in department rules:

41 (i) Participants with family incomes equal to or less than one
 42 hundred thirty-three percent (133%) of the federal poverty guide-
 43 line are not required to pay premiums; and

44 (ii) Participants with family incomes above one hundred thirty-
 45 three percent (133%) of the federal poverty guideline will be re-
 46 quired to pay premiums in accordance with department rule.

47 (3) Specific health benefits for persons with disabilities or special
 48 health needs include:

49 (a) All services described in subsection (5) of this section;

- 1 (b) Early and periodic screening, diagnosis and treatment services for
2 individuals under age twenty-one (21) years, and treatment of condi-
3 tions found;
- 4 (c) Case management services as defined in accordance with section
5 1905(a) (19) or section 1915(g) of the social security act; and
- 6 (d) Long-term care services, including:
- 7 (i) Nursing facility services, other than services in an institu-
8 tion for mental diseases, subject to participant cost-sharing;
- 9 (ii) Home-based and community-based services, subject to federal
10 approval, provided to individuals who require nursing facility
11 level of care who, without home-based and community-based ser-
12 vices, would require institutionalization. These services will
13 include community supports, including options for self-determi-
14 nation or family-directed, which will enable individuals to have
15 greater freedom to manage their own care within the determined
16 budget as defined by department rule; and
- 17 (iii) Personal care services in a participant's home, prescribed
18 in accordance with a plan of treatment and provided by a qualified
19 person under supervision of a registered nurse;
- 20 (e) Services for persons with developmental disabilities, including:
- 21 (i) Intermediate care facility services, other than such ser-
22 vices in an institution for mental diseases, for persons deter-
23 mined in accordance with section 1902(a) (31) of the social secu-
24 rity act to be in need of such care, including such services in a
25 public institution, or distinct part thereof, for persons with in-
26 tellectual disabilities or persons with related conditions;
- 27 (ii) Home-based and community-based services, subject to federal
28 approval, provided to individuals who require an intermediate
29 care facility for people with intellectual disabilities (ICF/ID)
30 level of care who, without home-based and community-based ser-
31 vices, would require institutionalization. These services will
32 include community supports and options for self-directed or fam-
33 ily-directed services, which will enable individuals to have
34 greater freedom to manage their own care within the determined
35 budget as defined by department rule. The department shall allow
36 budget modifications only when needed to obtain or maintain em-
37 ployment or when health and safety issues are identified and meet
38 the criteria as defined in department rule; and
- 39 (iii) Developmental disability services for children and adults
40 shall be available based on need through state plan services or
41 waiver services as described in department rule. The department
42 shall develop a blended rate covering both individual and group
43 developmental therapy services;
- 44 (f) Home health services, including:
- 45 (i) Intermittent or part-time nursing services provided by a home
46 health agency or by a registered nurse when no home health agency
47 exists in the area;
- 48 (ii) Home health aide services provided by a home health agency;
49 and

- 1 (iii) Physical therapy, occupational therapy or speech pathology
2 and audiology services provided by a home health agency or medical
3 rehabilitation facility;
- 4 (g) Hospice care in accordance with section 1905(o) of the social secu-
5 rity act;
- 6 (h) Specialized medical equipment and supplies;
- 7 (i) Medicare cost-sharing, including:
- 8 (i) Medicare cost-sharing for qualified medicare beneficiaries
9 described in section 1905(p) of the social security act;
- 10 (ii) Medicare part A premiums for qualified disabled and working
11 individuals described in section 1902(a)(10)(E)(ii) of the social
12 security act;
- 13 (iii) Medicare part B premiums for specified low-income medicare
14 beneficiaries described in section 1902(a)(10)(E)(iii) of the so-
15 cial security act; and
- 16 (iv) Medicare part B premiums for qualifying individuals de-
17 scribed in section 1902(a)(10)(E)(iv) and subject to section 1933
18 of the social security act; and
- 19 (j) Nonemergency medical transportation.
- 20 (4) Specific health benefits for persons over twenty-one (21) years of
21 age who have medicare and medicaid coverage include:
- 22 (a) All services described in subsection (5) of this section, other
23 than if provided under the federal medicare program;
- 24 (b) All services described in subsection (3) of this section, other
25 than if provided under the federal medicare program;
- 26 (c) Other services that supplement medicare coverage; and
- 27 (d) Nonemergency medical transportation.
- 28 (5) Benefits for all medicaid participants, unless specifically lim-
29 ited in subsection (2), (3) or (4) of this section, include the following:
- 30 (a) Health care coverage including, but not limited to, basic inpatient
31 and outpatient medical services, and including:
- 32 (i) Physicians' services, whether furnished in the office, the
33 patient's home, a hospital, a nursing facility or elsewhere;
- 34 (ii) Services provided by a physician or other licensed practi-
35 tioner to prevent disease, disability and other health conditions
36 or their progressions, to prolong life, or to promote physical or
37 mental health; and
- 38 (iii) Hospital care, including:
- 39 1. Inpatient hospital services other than those services
40 provided in an institution for mental diseases;
- 41 2. Outpatient hospital services; and
- 42 3. Emergency hospital services;
- 43 (iv) Laboratory and x-ray services;
- 44 (v) Prescribed drugs;
- 45 (vi) Family planning services and supplies for individuals of
46 child-bearing age;
- 47 (vii) Certified pediatric or family nurse practitioners' ser-
48 vices;
- 49 (viii) Emergency medical transportation;
- 50 (ix) Behavioral health services, including:

- 1 1. Outpatient behavioral health services that are appropri-
2 ate, delivered by providers that meet national accredita-
3 tion standards and may include community-based rehabilita-
4 tion services and case management; and
5 2. Inpatient psychiatric facility services whether in a
6 hospital, or for persons under the age of twenty-two (22)
7 years in a freestanding psychiatric facility as permitted by
8 federal law;
- 9 (x) Medical supplies, equipment, and appliances suitable for use
10 in the home;
- 11 (xi) Physical therapy and speech therapies combined to align with
12 the annual medicare caps; and
- 13 (xii) Occupational therapy to align with the annual medicare cap;
- 14 (b) Primary care medical homes;
- 15 (c) Dental services and medical and surgical services furnished by a
16 dentist in accordance with section 1905(a) (5) (B) of the social security
17 act;
- 18 (d) Medical care and any other type of remedial care recognized under
19 Idaho law, furnished by licensed practitioners within the scope of
20 their practice as defined by Idaho law, including:
- 21 (i) Podiatrists' services based on chronic care criteria as de-
22 fined in department rule;
- 23 (ii) Optometrists' services based on chronic care criteria as de-
24 fined in department rule;
- 25 (iii) Chiropractors' services, limited to six (6) visits per year;
26 and
- 27 (iv) Other practitioners' services, in accordance with depart-
28 ment rules;
- 29 (e) Services for individuals with speech, hearing and language disor-
30 ders as defined in department rule;
- 31 (f) Eyeglasses prescribed by a physician skilled in diseases of the eye
32 or by an optometrist;
- 33 (g) Services provided by essential providers, including:
- 34 (i) Rural health clinic services and other ambulatory services
35 furnished by a rural health clinic in accordance with section
36 1905(1) (1) of the social security act;
- 37 (ii) Federally qualified health center (FQHC) services and other
38 ambulatory services that are covered under the plan and furnished
39 by an FQHC in accordance with section 1905(1) (2) of the social se-
40 curity act;
- 41 (iii) Indian health services;
- 42 (iv) District health departments; and
- 43 (v) The family medicine residency of Idaho and the Idaho state
44 university family medicine residency; and
- 45 (h) Physician, hospital or other services deemed experimental are ex-
46 cluded from coverage. The director may allow coverage of procedures or
47 services deemed investigational if the procedures or services are as
48 cost-effective as traditional, standard treatments.

49 SECTION 4. 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.

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

23 (5) If federal financial participation for persons identified in sub-
 24 section (1) of this section is reduced below the ninety percent (90%) commit-
 25 ment described in section 1905(y) of the social security act, then the senate
 26 and house of representatives health and welfare committees shall, as soon as
 27 practicable, review the effects of such reduction and make a recommendation
 28 to the legislature as to whether Medicaid eligibility expansion should re-
 29 main in effect.

30 SECTION 5. 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 reports its find-
9 ings and recommendations to the Legislature and the Governor.

10 SECTION 6. 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.