

January 2020

Children, Families, Health, and Human Services Interim Committee
Sue O'Connell, Legislative Research Analyst

HJR 50: SENIOR AND LONG-TERM CARE SPENDING DOWN FOR MEDICAID COVERAGE

BACKGROUND

While most Medicaid recipients must meet income standards to qualify for the program, some individuals with significant health needs can qualify for Medicaid coverage even if their monthly income is higher than the amount allowed by law.

This briefing paper provides an overview of the Medically Needy program and discusses two concerns that stakeholders have raised: the amount of medical expenses people must incur to qualify for Medicaid coverage and the method in which they can incur those expenses.

MEDICALLY NEEDY PROGRAM PARAMETERS

In general, a person qualifies for the Medicaid program by:

- meeting the nonfinancial criteria for one of many eligibility categories; and
- having income and assets at or below the level allowed by law for that category of coverage.

However, under state law and administrative rules, people who are aged, blind, or disabled may qualify for coverage if their income exceeds the eligibility standard but:

- their spending on health-related expenses lowers their income to the level allowed by law; or
- they make a cash payment to the state equaling the amount by which their income exceeds the eligibility standard.

This exception is formally known as the Medically Needy program and is often referred to as the Medicaid "spend down" program. Essentially, the spending on health services is viewed as a deductible that people must pay before qualifying for Medicaid coverage for the remainder of their health care expenses that month. Eligibility for the program is determined each month.

STAKEHOLDER CONCERNS

Many people needing long-term care because they are elderly or disabled end up qualifying under the Medically Needy program each month. Advocates for these individuals have pointed to one long-standing issue with the current program and to a new development that they say has created additional concerns.

MEDICALLY NEEDY INCOME LIMIT

People qualify for the Medically Needy program if their income -- after spending on medical expenses -- is \$645 for the month. That amount reflects a base income limit of \$525, calculated according to federal law, and \$120 in income exclusions. The income exclusion was increased from \$20 to \$120 a month in 2007, after the Legislature appropriated about \$1.1 million in general fund to allow for the increase.

The example below shows how a person with a \$1,000 monthly income would qualify as medically needy.

\$1,000	Monthly Income
<u>-\$120</u>	General Exclusion
\$880	Countable Income
<u>-\$525</u>	Medically Needy Limit
\$365	Required Medical Spending or Cash Payment

Many people with disabilities receive Social Security Disability Insurance (SSDI) payments that are based on their past work history. The maximum benefit in 2019 was \$2,861 a month, although many people receive less than that.

Advocates say that because the Medically Needy income exclusion hasn't increased for more than a decade, people who are receiving cost-of-living adjustments in their SSDI payments have to pay more in health costs or cash payments each year to qualify for Medicaid. That, in effect, reduces their ability to use the increases in their SSDI benefits for other living expenses, which also may be increasing.

SPENDING DOWN VS. CASH UP FRONT

In 2019, the Senior and Long-Term Care Division changed the way it allows Big Sky Waiver participants to qualify for Medicaid under the Medically Needy program. In the past, they could either spend money on health-related costs until their incomes reached the eligibility level, make a cash payment to the Department of Public Health and Human Services that equaled the "spend down" amount, or use a combination of the two approaches.

Now, they may only make a cash payment directly to the department at the beginning of the month.

Advocates say the change may prevent people from obtaining recommended health services because they can no longer count their spending on those services toward their spend-down amount. After making the cash payment up front, they have \$645 in income for all their living expenses each month -- including items or services that are recommended by their health care providers but that may now require out-of-pocket payment because the item or service isn't offered by a Medicaid provider or covered fully or at all by Medicaid. DPHHS says the change allows people to qualify for Medicaid at the beginning of the month and alleviates issues that assisted living facilities were having in receiving payment before people had met their spend-down amount.

CI0425 0002soxe.docx

Sources

- 53-6-131(1)(e)(ii)(A), Montana Code Annotated. Eligibility requirements.
- 37.82.1107, Administrative Rules of Montana. Income Eligibility: Non-Institutionalized Medically Needy.
- Chapter 5, Special Laws of May 2007.
- "2019 Social Security Changes." *Social Security National Press Office*. Available at ssa.gov/news/press/factsheets/colafacts2019.pdf. Accessed Oct. 22, 2019.
- "Medically Needy Billing Procedures." BSW 407. Big Sky Waiver Policy Manual. *Department of Public Health and Human Services*.
- "Montana's Medically Needy Income Limit." *Montana Centers for Independent Living*. Presented to the Children, Families, Health, and Human Services Interim Committee on June 27, 2019.
- Interview with Barb Smith, Administrator, DPHHS Senior and Long-Term Care Division, Oct. 18, 2019.