

**Effective 11/6/2025**

**26B-3-113 Expanding the Medicaid program.**

- (1) As used in this section:
  - (a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.
  - (b) "Medicaid ACA Fund" means the Medicaid ACA Fund created in Section 26B-1-315.
  - (c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.
- (2)
  - (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.
  - (b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26B-3-210.
  - (c) The department may implement any provision described in Subsections 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.
- (3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:
  - (a) receives approval from CMS to:
    - (i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;
    - (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and
    - (iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);
  - (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:
    - (i) the Medicaid ACA Fund;
    - (ii) county contributions to the nonfederal share of Medicaid expenditures; or
    - (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and
  - (c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.
- (4)
  - (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:
    - (i) receives approval from CMS to:
      - (A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;
      - (B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and
      - (C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

- (ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:
    - (A) the Medicaid ACA Fund;
    - (B) county contributions to the nonfederal share of Medicaid expenditures; or
    - (C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and
  - (iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.
- (b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:
- (i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;
  - (ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);
  - (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;
  - (iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and
  - (v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).
- (5)
- (a)
- (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.
  - (ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:
    - (A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and
    - (B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.
  - (iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.
- (b) Notwithstanding Sections 26B-3-127 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under PPACA and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:

- (i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or
- (ii) July 1, 2020.
- (c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:
  - (i) implement each provision described in Subsections 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);
  - (ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and
  - (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.
- (d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26B-3-207.
- (e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:
  - (i) the Medicaid ACA Fund;
  - (ii) county contributions to the nonfederal share of Medicaid expenditures; or
  - (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.
- (f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):
  - (i) the department may reduce or eliminate optional Medicaid services under this chapter;
  - (ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid ACA Fund; and
  - (iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.
- (g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):
  - (i) the governor shall direct the department and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:
    - (A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and
    - (B) up to 10% of each agency's total current fiscal year General Fund appropriations;
  - (ii) the Division of Finance shall reduce allotments to the department and Department of Workforce Services by a percentage:
    - (A) proportionate to the amount of the deficiency; and
    - (B) up to 10% of each agency's total current fiscal year General Fund appropriations; and
  - (iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid ACA Fund.
- (6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.
- (7) Notwithstanding Sections 17-77-201 and 17-77-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

- (8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:
- (a) the number of individuals who enrolled in the Medicaid expansion;
  - (b) costs to the state for the Medicaid expansion;
  - (c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years;
  - (d) recommendations to control costs of the Medicaid expansion; and
  - (e) as calculated in accordance with Subsections 26B-3-506(4) and 26B-3-606(2), the state's net cost of the qualified Medicaid expansion.

Amended by Chapter 16, 2025 Special Session 1