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Senator Stivers

**Cosponsors: Senators Niehaus, Miller, D., Mumper, Spada, Gardner,
Padgett, Goodman, Schaffer, Miller, R., Cafaro, Carey, Clancy, Roberts,
Kearney, Austria, Buehrer, Cates, Harris, Mason, Schuler, Schuring, Sawyer,
Wilson, J., Smith, Morano, Fedor**

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A B I L L

To amend section 5111.851 and to enact sections 1
5111.70, 5111.701, 5111.702, 5111.703, 5111.704, 2
5111.705, 5111.706, 5111.707, 5111.708, 5111.709, 3
and 5111.7010 of the Revised Code to establish the 4
Medicaid Buy-In for Workers with Disabilities 5
Program. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5111.851 be amended and sections 7
5111.70, 5111.701, 5111.702, 5111.703, 5111.704, 5111.705, 8
5111.706, 5111.707, 5111.708, 5111.709, and 5111.7010 of the 9
Revised Code be enacted to read as follows: 10

Sec. 5111.70. (A) As used in sections 5111.70 to 5111.7010 of 11
the Revised Code: 12

(1) "Applicant" means an individual who applies to 13
participate in the medicaid buy-in for workers with disabilities 14
program. 15

(2) "Earned income" has the meaning established by rules 16
adopted under section 5111.707 of the Revised Code. 17

(3) "Employed individual with a medically improved 18
disability" has the same meaning as in 42 U.S.C. 1396d(v). 19

(4) "Family" means an applicant or participant and the spouse 20
and dependent children of the applicant or participant. If an 21
applicant or participant is under eighteen years of age, "family" 22
also means the parents of the applicant or participant. 23

(5) "Federal poverty guidelines" has the same meaning as in 24
section 5101.46 of the Revised Code. 25

(6) "Income" means earned income and unearned income. 26

(7) "Participant" means an individual who has been determined 27
eligible for the medicaid buy-in for workers with disabilities 28
program and is participating in the program. 29

(8) "Supplemental security income program" means the program 30
established under Title XVI of the "Social Security Act," 86 Stat. 31
1329 (1972), 42 U.S.C. 1381, as amended. 32

(9) "Medicaid buy-in for workers with disabilities program" 33
means the component of the medicaid program established under 34
sections 5111.70 to 5111.7010 of the Revised Code. 35

(10) "Unearned income" has the meaning established by rules 36
adopted under section 5111.707 of the Revised Code. 37

(B) Not later than ninety days after the effective date of 38
this section, the director of job and family services shall submit 39
to the United States secretary of health and human services an 40
amendment to the state medicaid plan and any federal waiver 41
necessary to establish the medicaid buy-in for workers with 42
disabilities program in accordance with 42 U.S.C. 1396a(a) 43
(10)(A)(ii)(XV) and (XVI) and sections 5111.70 to 5111.7010 of the 44
Revised Code. The director shall implement sections 5111.701 to 45

5111.7010 of the Revised Code if the amendment and, if needed, 46
federal waiver are approved. 47

Sec. 5111.701. Under the medicaid buy-in for workers with 48
disabilities program, an individual who does all of the following 49
in accordance with rules adopted under section 5111.707 of the 50
Revised Code qualifies for medical assistance under the medicaid 51
program: 52

(A) Applies for the medicaid buy-in for workers with 53
disabilities program; 54

(B) Provides satisfactory evidence of all of the following: 55

(1) That the individual is at least sixteen years of age and 56
under sixty-five years of age; 57

(2) Except as provided in section 5111.706 of the Revised 58
Code, that one of the following applies to the individual: 59

(a) The individual is considered disabled for the purpose of 60
the supplemental security income program, regardless of whether 61
the individual receives supplemental security income benefits, and 62
the individual has earnings from employment. 63

(b) The individual is an employed individual with a medically 64
improved disability. 65

(3) That the value of the assets of the individual's family, 66
less assets and asset value disregarded pursuant to rules adopted 67
under section 5111.707 of the Revised Code, does not exceed the 68
amount provided for by section 5111.702 of the Revised Code; 69

(4) That the income of the individual's family, less amounts 70
disregarded pursuant to section 5111.703 of the Revised Code, does 71
not exceed two hundred fifty per cent of the federal poverty 72
guidelines; 73

(5) That the individual meets the additional eligibility 74

requirements for the medicaid buy-in for workers with disabilities 75
program that the director of job and family services establishes 76
in rules adopted under section 5111.707 of the Revised Code. 77

(C) To the extent required by section 5111.704 of the Revised 78
Code, pays the premium established under that section. 79

Sec. 5111.702. (A) Except as provided in division (B) of this 80
section, the maximum value of assets, less assets and asset value 81
disregarded pursuant to rules adopted under section 5111.707 of 82
the Revised Code, that an individual's family may have without the 83
individual exceeding the asset eligibility limit for the medicaid 84
buy-in for workers with disabilities program shall not exceed ten 85
thousand dollars. 86

(B) Each calendar year, the director of job and family 87
services shall adjust the asset eligibility limit specified in 88
division (A) of this section by the change in the consumer price 89
index for all items for all urban consumers for the previous 90
calendar year, as published by the United States bureau of labor 91
statistics. The annual adjustment shall go into effect on the 92
earliest date possible. 93

Sec. 5111.703. For the purpose of determining whether an 94
individual is within the eligibility limit for the medicaid buy-in 95
for workers with disabilities program, all of the following apply: 96

(A) The first twenty thousand dollars of the individual's 97
earned income shall be disregarded. 98

(B) No amount that an employer of a member of the 99
individual's family pays to obtain health insurance for one or 100
more members of the family, including any amount of a premium 101
established under section 5111.704 of the Revised Code that the 102
employer pays, shall be treated as the income of the individual's 103
family. 104

(C) All other amounts disregarded pursuant to rules adopted 105
under section 5111.707 of the Revised Code shall be applied to the 106
income of the individual's family. 107

Sec. 5111.704. (A) An individual whose family's income 108
exceeds one hundred fifty per cent of the federal poverty 109
guidelines shall pay an annual premium as a condition of 110
qualifying for the medicaid buy-in for workers with disabilities 111
program. The amount of the premium shall be determined as follows: 112

(1) Subtract one hundred fifty per cent of the federal 113
poverty guidelines, as applicable for a family size equal to the 114
size of the individual's family, from the amount of the income of 115
the individual's family; 116

(2) Subtract any amount a member of the individual's family 117
pays, whether by payroll deduction or otherwise, for other health 118
insurance for one or more members of the family from the 119
difference determined under division (A)(1) of this section; 120

(3) Multiply the difference determined under division (A)(2) 121
of this section by one tenth. 122

(B) No amount that an employer of a member of an individual's 123
family pays to obtain health insurance for one or more members of 124
the individual's family, including any amount of a premium 125
established under this section that the employer pays, shall be 126
treated as the income of the individual's family for the purpose 127
of this section. 128

Sec. 5111.705. No individual shall be denied eligibility for 129
the medicaid buy-in for workers with disabilities program on the 130
basis that the individual receives services under a home and 131
community-based services medicaid waiver component as defined in 132
section 5111.851 of the Revised Code. 133

Sec. 5111.706. An individual participating in the medicaid buy-in for workers with disabilities program may continue to participate in the program for up to six months even though the individual ceases to have earnings from employment or to be an employed individual with a medically improved disability due to ceasing to be employed if the individual continues to meet all other eligibility requirements for the program. 134
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Sec. 5111.707. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the medicaid buy-in for workers with disabilities program. The rules shall do all of the following: 141
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(A) Specify assets, asset values, and amounts to be disregarded in determining asset and income eligibility limits for the program; 145
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(B) Establish meanings for the terms "earned income" and "unearned income"; 148
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(C) Establish additional eligibility requirements for the program that must be established for the United States secretary of health and human services to approve the program. 150
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Sec. 5111.708. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of the following members: 153
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(1) The executive director of assistive technology of Ohio or the executive director's designee; 156
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(2) The director of the axis center for public awareness of people with disabilities or the director's designee; 158
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(3) The executive director of the cerebral palsy association of Ohio or the executive director's designee; 160
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<u>(4) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;</u>	162
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<u>(5) The state director of the Ohio chapter of AARP or the state director's designee;</u>	164
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<u>(6) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;</u>	166
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<u>(7) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;</u>	169
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<u>(8) The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;</u>	172
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<u>(9) The chairperson of the Ohio Olmstead task force or the chairperson's designee;</u>	175
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<u>(10) The executive director of the Ohio statewide independent living council or the executive director's designee;</u>	177
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<u>(11) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;</u>	179
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<u>(12) The executive director of the arc of Ohio or the executive director's designee;</u>	181
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<u>(13) The executive director of the commission on minority health or the executive director's designee.</u>	183
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<u>(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties.</u>	185
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<u>(C) The members of the medicaid buy-in advisory council shall elect one of the members of the council to serve as the council's chairperson for a two-year term. The chairperson may be re-elected to successive terms.</u>	188
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(D) The department of job and family services shall provide 192
the Ohio medicaid buy-in advisory council with accommodations for 193
the council to hold its meetings and shall provide the council 194
with other administrative assistance the council needs to perform 195
its duties. 196

Sec. 5111.709. The director of job and family services or the 197
director's designee shall consult with the medicaid buy-in 198
advisory council before adopting, amending, or rescinding any 199
rules under section 5111.707 of the Revised Code governing the 200
medicaid buy-in for workers with disabilities program. 201

The director or designee shall meet at least quarterly with 202
the council to discuss the program. At the meetings, the council 203
may provide the director or designee with suggestions for 204
improving the program and the director or designee shall provide 205
the council with all of the following information: 206

(A) The number of individuals who participated in the program 207
the previous calendar quarter; 208

(B) The cost of the program the previous calendar quarter; 209

(C) The amount of revenue generated the previous quarter by 210
premiums that participants pay under section 5111.704 of the 211
Revised Code; 212

(D) The average amount of earned income of participants' 213
families; 214

(E) The average amount of time participants have participated 215
in the program; 216

(F) The types of other health insurance participants have 217
been able to obtain. 218

Sec. 5111.7010. Not less than once each year, the director of 219
job and family services shall submit a report on the medicaid 220

buy-in for workers with disabilities program to the governor, 221
speaker and minority leader of the house of representatives, 222
president and minority leader of the senate, and chairpersons of 223
the house and senate committees to which the biennial operating 224
budget bill is referred. The report shall include all of the 225
following information: 226

(A) The number of individuals who participated in the 227
medicaid buy-in for workers with disabilities program; 228

(B) The cost of the program; 229

(C) The amount of revenue generated by premiums that 230
participants pay under section 5111.704 of the Revised Code; 231

(D) The average amount of earned income of participants' 232
families; 233

(E) The average amount of time participants have participated 234
in the program; 235

(F) The types of other health insurance participants have 236
been able to obtain. 237

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 238
of the Revised Code: 239

"Administrative agency" means, with respect to a home and 240
community-based services medicaid waiver component, the department 241
of job and family services or, if a state agency or political 242
subdivision contracts with the department under section 5111.91 of 243
the Revised Code to administer the component, that state agency or 244
political subdivision. 245

"Home and community-based services medicaid waiver component" 246
means a medicaid waiver component under which home and 247
community-based services are provided as an alternative to 248
hospital, nursing facility, or intermediate care facility for the 249

mentally retarded services. 250

"Hospital" has the same meaning as in section 3727.01 of the Revised Code. 251
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"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 253
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"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or intermediate care facility for the mentally retarded and whether the individual, if determined to need that level of care, would receive hospital, nursing facility, or intermediate care facility for the mentally retarded services if not for a home and community-based services medicaid waiver component. 255
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"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5111.70 to 5111.7010 of the Revised Code. 263
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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 266
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"Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 268
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(B) The following requirements apply to each home and community-based services medicaid waiver component: 271
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(1) Only an individual who qualifies for a component shall receive that component's services. 273
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(2) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication 275
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that the individual's needs have changed. 280

(3) A written plan of care or individual service plan based 281
on an individual assessment of the services that an individual 282
needs to avoid needing admission to a hospital, nursing facility, 283
or intermediate care facility for the mentally retarded shall be 284
created for each individual determined eligible for a component. 285

(4) Each individual determined eligible for a component shall 286
receive that component's services in accordance with the 287
individual's level of care determination and written plan of care 288
or individual service plan. 289

(5) No individual may receive services under a component 290
while the individual is a hospital inpatient or resident of a 291
skilled nursing facility, nursing facility, or intermediate care 292
facility for the mentally retarded. 293

(6) No individual may receive prevocational, educational, or 294
supported employment services under a component if the individual 295
is eligible for such services that are funded with federal funds 296
provided under 29 U.S.C. 730 or the "Individuals with Disabilities 297
Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 298

(7) Safeguards shall be taken to protect the health and 299
welfare of individuals receiving services under a component, 300
including safeguards established in rules adopted under section 301
5111.85 of the Revised Code and safeguards established by 302
licensing and certification requirements that are applicable to 303
the providers of that component's services. 304

(8) No services may be provided under a component by a 305
provider that is subject to standards that 42 U.S.C. 1382e(e)(1) 306
requires be established if the provider fails to comply with the 307
standards applicable to the provider. 308

(9) Individuals determined to be eligible for a component, or 309
such individuals' representatives, shall be informed of that 310

component's services, including any choices that the individual or 311
representative may make regarding the component's services, and 312
given the choice of either receiving services under that component 313
or, as appropriate, hospital, nursing facility, or intermediate 314
care facility for the mentally retarded services. 315

(10) No individual shall lose eligibility for services under 316
a component, or have the services reduced or otherwise disrupted, 317
on the basis that the individual also receives services under the 318
medicaid buy-in for workers with disabilities program. 319

(11) No individual shall lose eligibility for services under 320
a component, or have the services reduced or otherwise disrupted, 321
on the basis that the individual's income or assets increase to an 322
amount above the eligibility limit for the component if the 323
individual is participating in the medicaid buy-in for workers 324
with disabilities program and the amount of the individual's 325
income or assets does not exceed the eligibility limit for the 326
medicaid buy-in for workers with disabilities program. 327

(12) No individual receiving services under a component shall 328
be required to pay any cost sharing expenses for the services for 329
any period during which the individual also participates in the 330
medicaid buy-in for workers with disabilities program. 331

Section 2. That existing section 5111.851 of the Revised Code 332
is hereby repealed. 333

Section 3. The Director of Job and Family Services shall call 334
the Medicaid Buy-In Advisory Council established under section 335
5111.708 of the Revised Code to meet for the first time not later 336
than sixty days after the effective date of this section. 337