As Introduced

130th General Assembly
Regular Session **H. B. No. 255**
2013-2014

Representative Becker

Cosponsor: Representative Lynch

A B I L L

To amend sections 5163.01, 5163.06, 5163.061, 5163.07, 5166.01, and 5166.04, to enact new section 5163.09, and to repeal sections 5163.09, 5163.091, 5163.092, 5163.093, 5163.094, 5163.095, 5163.096, 5163.097, 5163.098, 5163.099, and 5163.0910 of the Revised Code to revise the law governing eligibility for the Medicaid program and to abolish the Medicaid Buy-In for Workers with Disabilities Program.

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

Section 1. That sections 5163.01, 5163.06, 5163.061, 5163.07, 5166.01, and 5166.04 be amended and new section 5163.09 of the Revised Code be enacted to read as follows:

Sec. 5163.01. As used in this chapter:

"Caretaker relative" has the same meaning as in 42 C.F.R. 435.4 as that regulation is amended effective January 1, 2014.

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

"Federal financial participation" has the same meaning as in

section 5160.01 of the Revised Code.

"Federally qualified health center" has the same meaning as in the "Social Security Act," section 1905(l)(2)(B), 42 U.S.C. 1396d(l)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

"Healthy start component" has the same meaning as in section 5162.01 of the Revised Code.

"Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" have the same meanings as in section 5124.01 of the Revised Code.

"Mandatory eligibility groups" means the groups of individuals that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

~~"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5163.09 to 5163.0910 of the Revised Code.~~

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Optional eligibility groups" means the groups of individuals

who may be covered by the medicaid state plan or a federal medicaid waiver and for whom the medicaid program receives federal financial participation.

"Other medicaid-funded long-term care services" has the meaning specified in rules adopted under section 5163.02 of the Revised Code.

"Supplemental security income program" means the program established by Title XVI of the "Social Security Act," 42 U.S.C. 1381 et seq.

Sec. 5163.06. The medicaid program shall cover all of the following optional eligibility groups:

(A) The group consisting of children placed with adoptive parents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII);

(B) Subject to section 5163.061 of the Revised Code, the group consisting of women during pregnancy and the sixty-day period beginning on the last day of the pregnancy, infants, and children who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX);

(C) ~~Subject to sections 5163.09 to 5163.0910 of the Revised Code, the group consisting of employed individuals with disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);~~

~~(D) Subject to sections 5163.09 to 5163.0910 of the Revised Code, the group consisting of employed individuals with medically improved disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI);~~

~~(E)~~ The group consisting of independent foster care adolescents who are specified in the "Social Security Act,"

section 1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII);

~~(F)~~(D) The group consisting of women in need of treatment for breast or cervical cancer who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);

~~(G)~~(E) The group consisting of nonpregnant individuals who may receive family planning services and supplies and are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XXI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XXI).

Sec. 5163.061. The income eligibility threshold is ~~two~~ one hundred thirty-three per cent of the federal poverty line for women during pregnancy and the sixty-day period beginning on the last day of the pregnancy who are covered by the medicaid program under division (B) of section 5163.06 of the Revised Code.

Sec. 5163.07. The ~~medicaid director shall implement the option authorized by the "Social Security Act," section 1931(b)(2)(C), 42 U.S.C. 1396u-1(b)(2)(C), to set the~~ income eligibility threshold ~~at ninety~~ is thirty-four per cent of the federal poverty line for parents and caretaker relatives who are covered by the medicaid program under ~~that section of~~ the "Social Security Act~~,~~," section 1931, 42 U.S.C. 1396u-1.

Sec. 5163.09. The medicaid program shall not cover the following optional eligibility groups:

(A) The group consisting of employed individuals with disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);

(B) The group consisting of employed individuals with medically improved disabilities who are specified in the "Social

Security Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI).

Sec. 5166.01. As used in this chapter:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the component, that state agency or political subdivision.

"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital services, nursing facility services, or ICF/IID services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Hospital long-term care unit" has the same meaning as in section 5168.40 of the Revised Code.

"ICDS participant" has the same meaning as in section 5164.01 of the Revised Code.

"ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

"Integrated care delivery system" and "ICDS" have the same meanings as in section 5164.01 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or ICF/IID and whether the individual, if determined to need that level of care, would receive hospital

services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component.

~~"Medicaid buy-in for workers with disabilities program" has the same meaning as in section 5163.01 of the Revised Code.~~

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code.

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code.

"Ohio transitions II aging carve-out program" means the home and community-based services medicaid waiver component that is known as Ohio transitions II aging carve-out and was created pursuant to section 5166.11 of the Revised Code.

"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of

multiple facilities or institutions that, combined, have a total of more than sixteen beds.

"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code.

Sec. 5166.04. The following requirements apply to each home and community-based services medicaid waiver component:

(A) Only an individual who qualifies for a component shall receive that component's medicaid services.

(B) 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 that the individual's needs have changed.

(C) A written plan of care or individual service plan based on an individual assessment of the medicaid services that an individual needs to avoid needing admission to a hospital, nursing facility, or ICF/IID shall be created for each individual determined eligible for a component.

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

(E) No individual may receive medicaid services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or ICF/IID.

(F) No individual may receive prevocational, educational, or

supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(G) Safeguards shall be taken to protect the health and welfare of individuals receiving medicaid services under a component, including safeguards established in rules adopted under section 5166.02 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's medicaid services.

(H) No medicaid services may be provided under a component by a provider that is subject to standards that the "Social Security Act," section 1616(e)(1), 42 U.S.C. 1382e(e)(1), requires be established if the provider fails to comply with the standards applicable to the provider.

(I) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's medicaid services, including any choices that the individual or representative may make regarding the component's medicaid services, and given the choice of either receiving medicaid services under that component or, as appropriate, hospital services, nursing facility services, or ICF/IID services.

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

~~(K) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual's income or resources increase to an amount above the eligibility limit for the component if the individual is participating in the medicaid buy-in for workers~~

~~with disabilities program and the amount of the individual's income or resources does not exceed the eligibility limit for the medicaid buy-in for workers with disabilities program.~~

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

Section 2. That existing sections 5163.01, 5163.06, 5163.061, 5163.07, 5166.01, and 5166.04 and sections 5163.09, 5163.091, 5163.092, 5163.093, 5163.094, 5163.095, 5163.096, 5163.097, 5163.098, 5163.099, and 5163.0910 of the Revised Code are hereby repealed.

Section 3. Sections 1 and 2 of this act take effect on the later of the following:

(A) January 1, 2014;

(B) The earliest time permitted by law.