

SENATE BILL NO. 418

INTRODUCED BY JACOBSON, REGAN, TURNAGE, KEENAN,  
LYNCH, WALDRON

IN THE SENATE

February 15, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.  Statement of Intent attached.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass.  Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 47; Noes, 2. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Human Services.
March 17, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983	Returned to Senate with amendments.
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April 4, 1983	Second reading, amendments concurred in.
April 5, 1983	Third reading, amendments concurred in. Ayes, 48; Noes, 0.
	Sent to enrolling.
April 8, 1983	Correctly enrolled.
	Signed by President.
	Signed by Speaker.
April 9, 1983	Delivered to Governor.
April 15, 1983	Returned from Governor with recommended amendments.
April 20, 1983	Second reading, Governor's amendments concurred in.
April 21, 1983	Third reading, Governor's amendments concurred in.

#### IN THE HOUSE

April 21, 1983	Governor's amendments transmitted to House.
	Second reading, Governor's amendments concurred in.
	Third reading, Governor's amendments concurred in.
April 21, 1983	Returned to Senate. Sent to enrolling.
	Reported correctly enrolled.

1 *Sen. Jackson* BILL NO. *418*  
 2 INTRODUCED BY *J. Jackson For Turnage*  
 3 *Keenan Dylah Walden*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING  
 5 ADMINISTRATIVE RULES OF THE DEPARTMENT OF SOCIAL AND  
 6 REHABILITATION SERVICES IMPLEMENTING THE CHRONIC OR  
 7 END-STAGE RENAL DISEASE TREATMENT PROGRAM AND CLARIFYING  
 8 EXISTING RULEMAKING AUTHORITY FOR THOSE RULES; AMENDING  
 9 SECTION 53-6-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 10 DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 NEW SECTION. Section 1. Renal program rules repealed.  
 14 The rules adopted by the department of social and  
 15 rehabilitation services governing the end-stage renal  
 16 program published in the Administrative Rules of Montana as  
 17 ARM 46.16.101 through 46.16.103, 46.16.105, 46.16.106,  
 18 46.16.108, 46.16.110, and 46.16.115 are repealed.

19 Section 2. Section 53-6-202, MCA, is amended to read:  
 20 "53-6-202. Establishment of program. (1) The  
 21 department of social and rehabilitation services shall  
 22 establish a program to provide treatment to persons  
 23 suffering from chronic renal diseases, including dialysis  
 24 and other medical procedures and techniques, which will have  
 25 a lifesaving effect in the care and treatment of such

1 persons. The department shall extend financial assistance to  
 2 all persons suffering from chronic renal diseases in  
 3 obtaining the medical, nursing, pharmaceutical, and  
 4 technical services necessary to care for such diseases,  
 5 including the rental or purchase of home dialysis equipment  
 6 and supplies.

7 (2) The department shall by rule establish standards  
 8 for determining ~~eligibility--for--care--and--treatment~~ the  
 9 ~~amount or duration of financial assistance to be extended to~~  
 10 ~~individuals~~ under this program in order that treatment shall  
 11 be provided to those who are financially unable to obtain  
 12 ~~such--treatment services~~ without causing severe economic  
 13 imbalance in the family economic unit. Such standards shall  
 14 be established without reference to maximum or minimum  
 15 income levels but must be based upon the economic imbalance  
 16 caused by chronic renal diseases regardless of the amount of  
 17 income earned.

18 (3) ~~The department is not liable to any person for a~~  
 19 ~~failure to provide financial assistance to that person under~~  
 20 ~~this section if sufficient funds are not appropriated by the~~  
 21 ~~legislature.~~

22 NEW SECTION. Section 3. Effective date. This act is  
 23 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 418

3 Senate Public Health, Welfare and Safety Committee

4  
5 The Department of Social and Rehabilitation Services is  
6 currently required to adopt rules to implement a program of  
7 financial assistance for chronic renal diseased patients by  
8 rule. The Legislature considers it to be appropriate to  
9 provide guidance for the Department of Health and  
10 Environmental Sciences after transfer of this program.

11 It is the express intent of the Legislature that some  
12 financial assistance for treatment of chronic renal diseases  
13 be available to persons with end-stage renal diseases. The  
14 amount of money provided must be dependent upon the effect  
15 that would be caused to the economic stability of the family  
16 if the diseased person and his family were to assume all of  
17 the expenses of treatment itself. Under the bill, the  
18 Department must examine not the "absolute" income levels of  
19 the person needing treatment and his family, but the degree  
20 to which that level of income, whatever it may be, would be  
21 affected by treatment expenses. For these purposes, the  
22 Legislature intends that the Department not involve itself  
23 in major subjective judgments as to the ability of a patient  
24 and his family to do without property or services which they  
25 consider essential.

SECOND READING

SB 418

Approved by Committee  
on Public Health, Welfare  
& Safety

## SENATE BILL NO. 418

INTRODUCED BY JACOBSON, REGAN,

TURNAGE, KEENAN, LYNCH, WALDRON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~TRANSFERRING THE~~  
~~END-STAGE RENAL DISEASE PROGRAM TO THE DEPARTMENT OF HEALTH~~  
~~AND ENVIRONMENTAL SCIENCES~~; REPEALING ADMINISTRATIVE RULES  
OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
IMPLEMENTING THE CHRONIC OR END-STAGE RENAL DISEASE  
TREATMENT PROGRAM ~~AND~~; CLARIFYING EXISTING RULEMAKING  
AUTHORITY FOR THOSE RULES; ~~AND ADOPTING NEW RULES GOVERNING~~  
~~THE END-STAGE RENAL DISEASE PROGRAM UNTIL SUCH TIME AS RULES~~  
~~ARE ADOPTED BY THE DEPARTMENT~~; AMENDING SECTION 53-6-202,  
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Renal program rules repealed.  
The rules adopted by the department of social and  
rehabilitation services governing the end-stage renal  
program published in the Administrative Rules of Montana as  
ARM 46.16.101 through 46.16.103, 46.16.105, 46.16.106,  
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ENVIRONMENTAL SCIENCES shall establish a program to provide  
treatment to persons suffering from chronic renal diseases,  
including dialysis and other medical procedures and  
techniques, which will have a lifesaving effect in the care  
and treatment of such persons. The department shall extend  
financial assistance to ~~all~~ persons suffering from chronic  
renal diseases in obtaining the medical, nursing,  
pharmaceutical, and technical services necessary to care for  
such diseases, including the rental or purchase of home  
dialysis equipment and supplies.

(2) The department shall by rule establish standards  
for determining eligibility ~~for care and treatment~~ the  
~~amount or duration of financial assistance to be extended to~~  
individuals under this program in order that treatment shall  
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be established without reference to maximum or minimum  
income levels ~~but must be based upon the economic imbalances~~  
~~caused by chronic renal diseases regardless of the amount of~~  
~~income earned.~~

(3) ~~The department is not liable to any person for a~~  
~~failure to provide financial assistance to that person under~~  
~~this section if sufficient funds are not appropriated by the~~  
legislature."

THERE IS A NEW MCA SECTION THAT READS:

Section 3. Renal program rules adopted -- expiration.

The department of health and environmental sciences shall extend financial assistance under 53-6-202 to persons with chronic renal diseases in accordance with the following:

(1) The appropriate division shall extend financial assistance to eligible persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary to care for such diseases; other services include but are not limited to kidney transplantation, surgery, hospitalization, psychological treatment, transportation for applicant, donor, or attendant, attendant training, and attendant salary. These services may not exclude the rental or purchase of home dialysis equipment supplies, plumbing, wells, rewiring, and other adaptive equipment and supplies.

(2) The following eligibility requirements must be met:

(a) Applicants who are not financially able to obtain care and treatment on a continuing basis without causing severe economic imbalance to their family economic unit are eligible. Maximum or minimum income levels of the applicant or his or her family may not be considered.

(b) Vocational rehabilitation clients are not eligible unless:

(i) a reasonable period of time has elapsed (generally 6 months) during which evaluative services were provided; and

(ii) a medical determination of nonfeasibility can be shown at the close of the 6-month evaluation period.

(c) Applicants must be medically described as suffering from "chronic" end-stage renal disease, which does not include those persons with conditions which could potentially lead to the chronic state and does not include those persons with conditions medically defined as acute renal failure.

(d) Applicants eligible for medicare may be eligible if they meet the standards of this program, providing medicare benefits are fully utilized.

(e) Applicants eligible for the appropriate medicaid or medically needy programs are not eligible for this program until the benefits from medicaid and medically needy programs are exhausted.

(f) Eligibility as to financial need must be determined by the economic need test as set forth in subchapter 4 of the social and rehabilitation services rules. Such standards shall be established without reference to maximum and minimum income levels.

(3) The following priority for services will be provided:

1       (a) training for dialysis (including transportation,  
2 room, and board);  
3       (b) transplant costs;  
4       (c) center dialysis (when justified);  
5       (d) medications, for treatment of end-stage renal  
6 medical conditions;  
7       (e) fistular surgery;  
8       (f) dialysis machine rent, supplies, and repairs;  
9       (g) costs to install dialysis machine at home, as  
10 necessary;  
11       (h) plumbing, wiring, and related maintenance  
12 services; and  
13       (i) attendant.  
14       (4) The rules provided in subsection (1) are effective  
15 until such time as the department adopts appropriate rules  
16 under the Montana Administrative Procedure Act to implement  
17 the provisions of 53-6-202.  
18       NEW SECTION. Section 4. Effective date. This act is  
19 effective on passage and approval.

-End-

PROPOSED AMENDMENTS TO  
SENATE BILL NO. 418  
(REFERENCE BILL)

Page 4, lines 22 and 23.

Following: line 21

Strike: line 22 through "rules" on line 23

Insert: "ARM 46.6.405 through 46.6.411"

*Governor's*



## 1 STATEMENT OF INTENT

## 2 SENATE BILL 418

3 Senate Public Health, Welfare and Safety Committee

4

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6 currently required to adopt rules to implement a program of  
7 financial assistance for chronic renal diseased patients by  
8 rule. The Legislature considers it to be appropriate to  
9 provide guidance for the Department of Health and  
10 Environmental Sciences after transfer of this program.

11 It is the express intent of the Legislature that some  
12 financial assistance for treatment of chronic renal diseases  
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14 amount of money provided must be dependent upon the effect  
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THIRD READING

SB 418

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TREATMENT PROGRAM ~~AND~~ CLARIFYING EXISTING RULEMAKING  
AUTHORITY FOR THOSE RULES; ~~AND ADOPTING NEW RULES GOVERNING~~  
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MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Renal program rules repealed.  
The rules adopted by the department of social and  
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(2) The following eligibility requirements must be met:

(a) Applicants who are not financially able to obtain care and treatment on a continuing basis without causing severe economic imbalance to their family economic unit are eligible. Maximum or minimum income levels of the applicant or his or her family may not be considered.

(b) Vocational rehabilitation clients are not eligible unless:

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(ii) a medical determination of nonfeasibility can be shown at the close of the 6-month evaluation period.

(c) Applicants must be medically described as suffering from "chronic" end-stage renal disease, which does not include those persons with conditions which could potentially lead to the chronic state and does not include those persons with conditions medically defined as acute renal failure.

(d) Applicants eligible for medicare may be eligible if they meet the standards of this program, providing medicare benefits are fully utilized.

(e) Applicants eligible for the appropriate medicaid or medically needy programs are not eligible for this program until the benefits from medicaid and medically needy programs are exhausted.

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10 necessary;  
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12 services; and  
13       (i) attendant.  
14       (4) The rules provided in subsection (1) are effective  
15 until such time as the department adopts appropriate rules  
16 under the Montana Administrative Procedure Act to implement  
17 the provisions of 53-6-202.  
18       **NEW SECTION.** Section 4. Effective date. This act is  
19 effective on passage and approval.

-End-

HOUSE HUMAN SERVICES COMMITTEE

AMENDMENTS TO SENATE BILL 418

March 16, 1983

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

1. Title, line 14.

Following: "MCA;"

Insert: "PROVIDING A TERMINATION DATE;"

2. Page 5, line 14.

Strike: "(4)"

Insert: "NEW SECTION. Section 4. Termination date."

Strike: "rules"

Insert: "limitations"

3. Page 5, lines 14 and 15.

Strike: "subsection (1) are effective until such time as"

Insert: "subsections (1) through (3) of [section 3] terminate when"

Renumber: subsequent section

AND AS AMENDED

BE CONCURRED IN

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 418

3 Senate Public Health, Welfare and Safety Committee

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6 currently required to adopt rules to implement a program of  
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REFERENCE BILL

SB 418

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25 (b) Vocational rehabilitation clients are not eligible

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3 6 months) during which evaluative services were provided;  
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5 (ii) a medical determination of nonfeasibility can be  
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1 provided:

2 (a) training for dialysis (including transportation,

3 room, and board);

4 (b) transplant costs;

5 (c) center dialysis (when justified);

6 (d) medications, for treatment of end-stage renal

7 medical conditions;

8 (e) ~~fistula~~ **FISTULAR** surgery;

9 (f) dialysis machine rent, supplies, and repairs;

10 (g) costs to install dialysis machine at home, as

11 necessary;

12 (h) plumbing, wiring, and related maintenance

13 services; and

14 (i) attendant.

15 ~~+++ SECTION 4. TERMINATION DATE. The rules LIMITATIONS~~

16 ~~provided in subsection (i) are effective until such time as~~

17 ~~SUBSECTIONS (1) THROUGH (3) OF [SECTION 3] TERMINATE WHEN~~

18 the department adopts appropriate rules under the Montana

19 Administrative Procedure Act to implement the provisions of

20 53-6-202.

21 **NEW SECTION.** Section 5. Effective date. This act is

22 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 418

3 Senate Public Health, Welfare and Safety Committee

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REFERENCE BILL: INCLUDES GOVERNOR'S  
AMENDMENTS DATED 4-14-83

SB 418

## SENATE BILL NO. 418

INTRODUCED BY JACOBSON, REGAN,  
TURNAGE, KEENAN, LYNCH, WALDRON

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ARM 46.16.101 through 46.16.103, 46.16.105, 46.16.106,  
46.16.108, 46.16.110, and 46.16.115 are repealed.

Section 2. Section 53-6-202, MCA, is amended to read:

"53-6-202. Establishment of program. (1) The

department of ~~social-and-rehabilitation-services~~ HEALTH AND  
ENVIRONMENTAL SCIENCES shall establish a program to provide  
treatment to persons suffering from chronic renal diseases,  
including dialysis and other medical procedures and  
techniques, which will have a lifesaving effect in the care  
and treatment of such persons. The department shall extend  
financial assistance to ~~all~~ persons suffering from chronic  
renal diseases in obtaining the medical, nursing,  
pharmaceutical, and technical services necessary to care for  
such diseases, including the rental or purchase of home  
dialysis equipment and supplies.

(2) The department shall by rule establish standards  
for determining ~~eligibility--for--care--and--treatment~~ the  
amount or duration of financial assistance to be extended to  
individuals under this program in order that treatment shall  
be provided to those who are financially unable to obtain  
~~such--treatment services~~ without causing severe economic  
imbalance in the family economic unit. Such standards shall  
be established without reference to maximum or minimum  
income levels ~~but must be based upon the economic--imbalance~~  
~~caused by chronic renal diseases regardless of the amount of~~  
~~income earned.~~

~~(3) The department is not liable to any person for a~~  
~~failure to provide financial assistance to that person under~~  
~~this section if sufficient funds are not appropriated by the~~

legislature."

THERE IS A NEW MCA SECTION THAT READS:

Section 3. Renal program rules adopted -- expiration.

The department of health and environmental sciences shall extend financial assistance under 53-6-202 to persons with chronic renal diseases in accordance with the following:

(1) The appropriate division shall extend financial assistance to eligible persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary to care for such diseases; other services include but are not limited to kidney transplantation, surgery, hospitalization, psychological treatment, transportation for applicant, donor, or attendant, attendant training, and attendant salary. These services may not exclude the rental or purchase of home dialysis equipment supplies, plumbing, wells, rewiring, and other adaptive equipment and supplies.

(2) The following eligibility requirements must be met:

(a) Applicants who are not financially able to obtain care and treatment on a continuing basis without causing severe economic imbalance to their family economic unit are eligible. Maximum or minimum income levels of the applicant or his or her family may not be considered.

(b) Vocational rehabilitation clients are not eligible

unless:

(i) a reasonable period of time has elapsed (generally 6 months) during which evaluative services were provided; and

(ii) a medical determination of nonfeasibility can be shown at the close of the 6-month evaluation period.

(c) Applicants must be medically described as suffering from "chronic" end-stage renal disease, which does not include those persons with conditions which could potentially lead to the chronic state and does not include those persons with conditions medically defined as acute renal failure.

(d) Applicants eligible for medicare may be eligible if they meet the standards of this program, providing medicare benefits are fully utilized.

(e) Applicants eligible for the appropriate medicaid or medically needy programs are not eligible for this program until the benefits from medicaid and medically needy programs are exhausted.

(f) Eligibility as to financial need must be determined by the economic need test as set forth in ~~subchapter 4 of the social and rehabilitation services rules ARM 46.6.405 THROUGH 46.6.411~~. Such standards shall be established without reference to maximum and minimum income levels.

1       (3) The following priority for services will be  
2 provided:

3       (a) training for dialysis (including transportation,  
4 room, and board);

5       (b) transplant costs;

6       (c) center dialysis (when justified);

7       (d) medications, for treatment of end-stage renal  
8 medical conditions;

9       (e) ~~fistula~~ FISTULAR surgery;

10       (f) dialysis machine rent, supplies, and repairs;

11       (g) costs to install dialysis machine at home, as  
12 necessary;

13       (h) plumbing, wiring, and related maintenance  
14 services; and

15       (i) attendant.

16       ~~44~~ SECTION 4. TERMINATION DATE. The rules LIMITATIONS  
17 provided in ~~subsection (1) are effective until such time as~~  
18 SUBSECTIONS (1) THROUGH (3) OF [SECTION 3] TERMINATE WHEN  
19 the department adopts appropriate rules under the Montana  
20 Administrative Procedure Act to implement the provisions of  
21 53-6-202.

22       NEW SECTION. Section 5. Effective date. This act is  
23 effective on passage and approval.

-End-