

HOUSE BILL NO. 452

INTRODUCED BY CODY, COBB, MANNING, NISBET, SQUIRES,
MARKS, JACOBSON, MERCER, STRIZICH, HARPER, BOHARSKI,
GRINDE, J. BROWN, HANSEN, VINCENT, QUILICI

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE HOUSE

JANUARY 26, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
JANUARY 27, 1989	FIRST READING.
FEBRUARY 3, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES NISBET, SQUIRES, MARKS, MERCER, STRIZICH, HARPER, BOHARSKI, GRINDE, J. BROWN, HANSEN, VINCENT, AND QUILICI AND SENATORS MANNING AND JACOBSON ADDED AS SPONSORS.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 1, 1989	PRINTING REPORT.
MARCH 2, 1989	SECOND READING, DO PASS.
MARCH 3, 1989	ENGROSSING REPORT.
MARCH 4, 1989	THIRD READING, PASSED. AYES, 92; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
APRIL 6, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT

ADOPTED.

APRIL 8, 1989

SECOND READING, CONCURRED IN.

APRIL 10, 1989

THIRD READING, CONCURRED IN.
AYES, 47; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 11, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 13, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 17, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 19, 1989

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 19, 1989

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

SECOND READING, FREE CONFERENCE

COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 452
2 INTRODUCED BY Cady Cobb
3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
4 AND REHABILITATION SERVICES
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
7 CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM;
8 AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113,
9 53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND
10 53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 [sections 4 and 5] grant authority to the department of
15 social and rehabilitation services and to the department of
16 health and environmental sciences to adopt rules to
17 administer and supervise services provided under the Montana
18 medicaid program.

19 The bill expands the existing rulemaking authority of
20 the department of social and rehabilitation services under
21 [section 5] and provides new authority for the department to
22 adopt rules under [section 4] governing the application of
23 sanctions or action against health care facilities that fail
24 to meet the requirements for certification as a medicaid
25 service provider. Under [section 5], the department is

1 authorized to establish rules necessary for reimbursement or
2 payment of medicaid service providers. It is intended that
3 these rules address the types of medical services that are
4 eligible for medicaid reimbursement; the nature, amount,
5 scope, and duration of services; the rates for reimbursement
6 of services, and the department's interaction with medicaid
7 service providers.

8 Rules adopted under [sections 4 and 5] should be in
9 accordance with federal regulations applicable to the
10 medicaid program under Title XIX of the federal Social
11 Security Act. In establishing rules on the scope of services
12 and the rates for reimbursement of services, the department
13 of social and rehabilitation services should consider the
14 amount of funds appropriated by the legislature for the
15 Montana medicaid program. The department should also
16 consider the need to provide for services in an efficient
17 and cost-effective manner.

18 In adopting rules governing the provision of medicaid
19 services, the department of social and rehabilitation
20 services shall take particular care to provide only those
21 services that are medically necessary and to ensure that
22 such services are provided in the least costly setting and
23 by the most efficient and cost-effective means. For example,
24 hospital treatment should not be provided if adequate but
25 less costly nursing home or physician's office services are

1 available.

2 Under [section 4], the department of social and
3 rehabilitation services and the department of health and
4 environmental sciences are given authority to establish
5 standards for the health, safety, and care provided in a
6 health care facility. This authority is intended to be in
7 addition to existing authority of the department of health
8 and environmental sciences under Title 50 of the Montana
9 Code Annotated.

10 Pursuant to [section 4], the department of social and
11 rehabilitation services shall adopt rules establishing
12 appropriate sanctions or action that may be taken against a
13 health care facility that does not meet the minimum
14 standards for certification as a medicaid provider. Such
15 sanctions or action may include civil monetary penalties
16 with interest, the suspension and termination of medicaid
17 certification, and the appointment of management personnel
18 to oversee the operation of a health care facility on a
19 temporary basis in the case of an emergency or when
20 necessary for the orderly closure of a facility or to bring
21 a facility into compliance with minimum standards. This
22 authority is in addition to the authority provided to the
23 department under section 53-6-111, MCA.

24 The bill also provides the department of social and
25 rehabilitation services authority to adopt rules

1 establishing eligibility for medicaid payment of premiums on
2 behalf of individuals eligible for medicare under Title
3 XVIII of the federal Social Security Act. It is intended
4 that these rules establish the conditions for payments by
5 the department to the federal government for supplemental
6 insurance coverage provided under medicare.

7 Finally, the bill grants the department of social and
8 rehabilitation services authority to adopt rules for the
9 implementation of local demonstration programs, which would
10 not be available to all residents of the state. The purpose
11 of these demonstration programs is to provide for the
12 delivery of different medical services to different classes
13 of medically indigent persons on a trial basis in order to
14 assess the efficiency or cost-effectiveness of providing
15 alternative services.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 53-6-101, MCA, is amended to read:

19 "53-6-101. Definition--of--medical--assistance Montana
20 medicaid program -- authorization of services. (1) There is
21 a Montana medicaid program established for the purpose of
22 providing necessary medical services to eligible persons who
23 have need for medical assistance. The Montana medicaid
24 program is a joint federal-state program administered under
25 this chapter and in accordance with Title XIX of the federal

Social Security Act (42 U.S.C. 1396, et seq.), as may be amended. The department of social and rehabilitation services shall administer the Montana medicaid program.

~~{1}~~(2) The definition of--medical Medical assistance shall--include provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services;

(d) skilled nursing home services in long-term care facilities;

(e) physicians' services, ~~whether--furnished--in-the office, the patient's home, a hospital, a--skilled--nursing home, or elsewhere; and~~

(f) services provided by nurse specialists, specialist services as--specifically listed in 37-8-202(5), within the scope of their practice--and--that--are--otherwise--directly reimbursed--as--allowed under department rule to an existing provider;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age.

~~{2}~~(3) It Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include,--although not necessarily limited to, the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy ~~and other related~~ services;

(f) clinic mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;

(g) services---provided--by clinical social workers worker services licensed under Title 37, chapter 22;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses prescribed--by a physician skilled in--diseases--of--the--eye--or--by--an--optometrist, whichever the individual may select;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

~~{*}~~(1) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) The department may implement, as provided for in

Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(5) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(6) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost effective.

(7) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended.

(8) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(9) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(10) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance

with the provisions of this chapter and the rules adopted thereunder."

Section 2. Section 53-6-103, MCA, is amended to read:

"53-6-103. State plan and operation of medical assistance to be in effect and uniform throughout state. It is hereby mandatory and required that the state plan and operation of medical assistance The Montana medicaid program, except for those services provided under part 4 of this chapter, shall be in effect in each and every county of the state, and the administration and supervision of medical assistance the program shall be uniform throughout the several counties of the state. However, the department of social and rehabilitation services may implement temporary or demonstration programs as permitted by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended."

Section 3. Section 53-6-104, MCA, is amended to read:

"53-6-104. Freedom of doctors to treat recipients of medical assistance -- freedom to select doctor. (1) The department of social and rehabilitation services shall provide for professional freedom of those licensed practitioners who provide medical assistance under this part and provide reasonable freedom of choice to recipients of medical aid to select the vendor or provider of medical care, services, or prescribed drugs.

(2) Nothing in this section may be construed to prohibit the department from imposing conditions on the payment of provider services and the receipt of medical assistance, as provided for under 53-6-111, and 53-6-113 through 53-6-115, ~~and 53-6-141.~~"

NEW SECTION. Section 4. Health care facilities, standards, sanctions, and penalties -- definitions. (1) For purposes of this section, the following definitions apply:

(a) "Department" means the department of social and rehabilitation services.

(b) "Health care facility" means a health care facility as defined in 50-5-101.

(2) The department and the department of health and environmental sciences may enter into agreements with appropriate federal agencies for the purpose of certifying health care facilities for the Montana medicaid program.

(3) The department of health and environmental sciences shall adopt rules prescribing minimum standards for the maintenance and operation of health care facilities, including standards for the quality of care provided by those facilities receiving reimbursement under the Montana medicaid program. These standards must include, as a minimum, those requirements imposed upon health care facilities by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, and by the

implementing regulations contained in 42 CFR 430, et seq., as may be amended. The authority to prescribe standards and adopt rules under this section is in addition to the authority granted to the department of health and environmental sciences pursuant to Title 50, chapter 5.

(4) Standards adopted by the department of health and environmental sciences may include but are not limited to requirements in the following areas: staffing, fire protection, health and safety, food and nutrition, environmental and sanitation, administration, admission policies, patient care planning, training, medication, health services, rehabilitation services, and social services and activities.

(5) The department may suspend, terminate, or refuse to renew an agreement with a health care facility that has failed to meet the requirements for certification adopted for the Montana medicaid program under this section. The department may also impose sanctions in the form of denial of medicaid payments for new admissions or other penalties as described in 53-6-111.

(6) The department may impose a civil monetary penalty, with interest not to exceed 12% per annum, for each day that a facility is substantially out of compliance with standards adopted by the department of health and environmental sciences under the authority of Title 50,

chapter 5, or this section. Penalties must be collected by the department and may be applied to the protection of the health and property of residents of health care facilities that the department finds deficient, including payment for the costs of relocation of residents to other facilities, operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(7) The department may appoint temporary management personnel to oversee the operation of the facility and to assure the health and safety of the facility's residents if there is a need for temporary management because:

(a) an orderly closure of the facility is necessary; or

(b) improvements are being made to bring the facility into compliance with applicable standards.

(8) The department shall, in the case of an emergency, close the facility or transfer residents in the facility to other facilities, or both.

(9) The department shall adopt rules governing the application of sanctions or remedies imposed under subsections (5) through (8), the amounts of any fines, and the severity of each of these sanctions or remedies. The rules must be designed for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

The civil penalty for violation of the standards adopted by the department of health and environmental sciences or those federal standards established in subsection (2) may not exceed \$1,000 for each day the deficiency remains uncorrected. A health care facility aggrieved by an action of the department may request a hearing pursuant to Title 2, chapter 4, part 6.

Section 5. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department of social and rehabilitation services shall adopt appropriate rules ~~not inconsistent with this part to administer and supervise the program uniformly throughout the state and shall define medical assistance by rules. Medical assistance shall be furnished through payments to providers of services and supplies as contemplated in this~~ part necessary for the administration of the Montana medicaid program as provided for in this part and as may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as amended.

(2) The department shall adopt rules as are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services utilized are medically necessary and that these services are the most efficient and cost effective available. The rules

may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set such rates of reimbursement as it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part."

Section 6. Section 53-6-401, MCA, is amended to read:

"53-6-401. Definitions. As used in this part, the following definitions apply:

(1) "Community-based medicaid services" means those

long-term medical, habilitative, rehabilitative, and other services that are available to medicaid-eligible persons in a community setting or in a person's home as a substitute for medicaid services provided in long-term care facilities and that are allowed under the state medicaid plan in order to avoid institutionalization.

(2) "Department" means the department of social and rehabilitation services as provided for in Title 2, chapter 15, part 22.

(3) "Long-term care facilities" means facilities that are certified by the department of health and environmental sciences to provide skilled or intermediate nursing care services, including intermediate nursing care services for the developmentally disabled.

(4) "Long-term care medicaid services" means community-based medicaid services and those medicaid services provided in long-term care facilities.

(5) "Long-term care ~~placement-evaluation~~ preadmission screening and resident review" means an evaluation that results in a determination as to whether a person requires the ~~level-of-care~~ services provided in long-term care facilities and whether community-based medicaid services would be an appropriate substitute for medicaid services that are available in long-term care facilities."

Section 7. Section 53-6-402, MCA, is amended to read:

1 "53-6-402. Community-based long-term care facilities
2 -- powers and duties of department. (1) The department may
3 operate, for persons eligible for medicaid, a program of
4 community-based services as an alternative to long-term care
5 facility services in accordance with the provisions of Title
6 XIX of the Social Security Act, ~~as that title reads on July~~
7 ~~17, 1983, and 42 CFR parts 435 and 441, as those parts read~~
8 ~~on July 17, 1983 as may be amended.~~

9 (2) The department may conduct long-term care
10 ~~placement--evaluations~~ preadmission screenings and resident
11 reviews. Long-term care ~~placement-evaluations~~ preadmission
12 screenings and resident reviews are required for all
13 medicaid-eligible persons entering long-term care facilities
14 and community-based services and for all persons who become
15 eligible for medicaid after entering long-term care
16 facilities, before payment for services in such settings are
17 authorized under medicaid. Evaluations Preadmission
18 screenings and resident review of persons not applying for
19 medical assistance under this part must be on a voluntary
20 basis, except as required under the Social Security Act.

21 (3) The department shall annually advise medical
22 doctors and current residents of long-term care facilities
23 of the program provided in subsection (1).

24 (4) The department may adopt rules necessary to
25 implement a program of community-based medicaid services and

1 to establish a system of long-term care placement
2 evaluations preadmission screenings and resident reviews as
3 part of that program."

4 NEW SECTION. Section 8. Repealer. Sections 53-6-102
5 and 53-6-141, MCA, are repealed.

6 NEW SECTION. Section 9. Extension of authority. Any
7 existing authority to make rules on the subject of the
8 provisions of [this act] is extended to the provisions of
9 [this act].

10 NEW SECTION. Section 10. Codification instruction.
11 [Section 4] is intended to be codified as an integral part
12 of Title 53, chapter 6, part 1, and the provisions of Title
13 53, chapter 6, part 1, apply to [section 4].

14 NEW SECTION. Section 11. Effective date. [This act]
15 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB452, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: " An act to generally revise and clarify the laws relating to the Montana Medicaid Program."

ASSUMPTIONS:

1. HB452 does not change coverage of Medicaid services; therefore, no fiscal impact to the Department of Institutions, the Department of Family Services, the Department of Social and Rehabilitation Services.
2. Allows Department of Social and Rehabilitation Services to adopt rules governing the application of sanctions or actions against health care facilities that fail to meet the requirements for certification as a Medicaid provider.
3. The Department of Health and Environmental Sciences and SRS will absorb the cost of promulgating and publishing rules within the current level appropriation.

FISCAL IMPACT:

<u>FY90</u>	<u>FY91</u>
-0-	-0-

Ray Shackelford 2/2/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Dorothy A. Cody 2/04/89
DOROTHY A. CODY, PRIMARY SPONSOR DATE

Fiscal Note for HB452, as introduced

HB 452

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 452

INTRODUCED BY CODY, COBB, MANNING, NISBET, SQUIRES,
MARKS, JACOBSON, MERCER, STRIZICH, HARPER, BOHARSKI,
GRINDE, J. BROWN, HANSEN, VINCENT, QUILICI

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM;
AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113,
53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND
53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[sections 4 and 5] grant authority to the department of
social and rehabilitation services and to the department of
health and environmental sciences to adopt rules to
administer and supervise services provided under the Montana
medicaid program.

The bill expands the existing rulemaking authority of
the department of social and rehabilitation services under
[section 5] and provides new authority for the department to
adopt rules under [section 4] governing the application of
sanctions or action against health care facilities that fail

to meet the requirements for certification as a medicaid
service provider. Under [section 5], the department is
authorized to establish rules necessary for reimbursement or
payment of medicaid service providers. It is intended that
these rules address the types of medical services that are
eligible for medicaid reimbursement; the nature, amount,
scope, and duration of services; the rates for reimbursement
of services, and the department's interaction with medicaid
service providers.

Rules adopted under [sections 4 and 5] should be in
accordance with federal regulations applicable to the
medicaid program under Title XIX of the federal Social
Security Act. In establishing rules on the scope of services
and the rates for reimbursement of services, the department
of social and rehabilitation services should consider the
amount of funds appropriated by the legislature for the
Montana medicaid program. The department should also
consider the need to provide for services in an efficient
and cost-effective manner.

In adopting rules governing the provision of medicaid
services, the department of social and rehabilitation
services shall take particular care to provide only those
services that are medically necessary and to ensure that
such services are provided in the least costly setting and
by the most efficient and cost-effective means. For example,

1 hospital treatment should not be provided if adequate but
2 less costly nursing home or physician's office services are
3 available.

4 Under [section 4], the department of social and
5 rehabilitation services and the department of health and
6 environmental sciences are given authority to establish
7 standards for the health, safety, and care provided in a
8 health care facility. This authority is intended to be in
9 addition to existing authority of the department of health
10 and environmental sciences under Title 50 of the Montana
11 Code Annotated.

12 Pursuant to [section 4], the department of social and
13 rehabilitation services shall adopt rules establishing
14 appropriate sanctions or action that may be taken against a
15 health care facility that does not meet the minimum
16 standards for certification as a medicaid provider. Such
17 sanctions or action may include civil monetary penalties
18 with interest, the suspension and termination of medicaid
19 certification, and the appointment of management personnel
20 to oversee the operation of a health care facility on a
21 temporary basis in the case of an emergency or when
22 necessary for the orderly closure of a facility or to bring
23 a facility into compliance with minimum standards. This
24 authority is in addition to the authority provided to the
25 department under section 53-6-111, MCA.

1 The bill also provides the department of social and
2 rehabilitation services authority to adopt rules
3 establishing eligibility for medicaid payment of premiums on
4 behalf of individuals eligible for medicare under Title
5 XVIII of the federal Social Security Act. It is intended
6 that these rules establish the conditions for payments by
7 the department to the federal government for supplemental
8 insurance coverage provided under medicare.

9 Finally, the bill grants the department of social and
10 rehabilitation services authority to adopt rules for the
11 implementation of local demonstration programs, which would
12 not be available to all residents of the state. The purpose
13 of these demonstration programs is to provide for the
14 delivery of different medical services to different classes
15 of medically indigent persons on a trial basis in order to
16 assess the efficiency or cost-effectiveness of providing
17 alternative services.

18

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

20 **Section 1.** Section 53-6-101, MCA, is amended to read:

21 "53-6-101. Definition--of--medical--assistance Montana
22 medicaid program -- authorization of services. (1) There is
23 a Montana medicaid program established for the purpose of
24 providing necessary medical services to eligible persons who
25 have need for medical assistance. The Montana medicaid

1 program is a joint federal-state program administered under
 2 this chapter and in accordance with Title XIX of the federal
 3 Social Security Act (42 U.S.C. 1396, et seq.), as may be
 4 amended. The department of social and rehabilitation
 5 services shall administer the Montana medicaid program.

6 ~~(1)(2)~~ The definition of--medical Medical assistance
 7 shall--include provided by the Montana medicaid program
 8 includes the following services:

9 (a) inpatient hospital services;

10 (b) outpatient hospital services;

11 (c) other laboratory and x-ray services;

12 (d) skilled nursing home services in long-term care
 13 facilities;

14 (e) physicians' services, ~~whether--furnished--in-the~~
 15 ~~office, the patient's home, a hospital, a--skilled--nursing~~
 16 ~~home, or elsewhere; and~~

17 (f) ~~services provided by nurse specialists, specialist~~
 18 ~~services as--specifically listed in 37-8-202(5), within the~~
 19 ~~scope of their practice--and--that--are--otherwise--directly~~
 20 ~~reimbursed--as--allowed under department rule to an existing~~
 21 ~~provider;~~

22 (g) early and periodic screening, diagnosis, and
 23 treatment services for persons under 21 years of age.

24 ~~(2)(3)~~ Medical assistance provided by the Montana
 25 medicaid program may, as provided by department rule, also

1 ~~include, although not necessarily limited to,~~ the following
 2 services:

3 (a) medical care or any other type of remedial care
 4 recognized under state law, furnished by licensed
 5 practitioners within the scope of their practice as defined
 6 by state law;

7 (b) home health care services;

8 (c) private-duty nursing services;

9 (d) dental services;

10 (e) physical therapy and other related services;

11 (f) clinic mental health center services administered
 12 and funded under a state mental health program authorized
 13 under Title 53, chapter 21, part 2;

14 (g) ~~services--provided--by clinical social workers~~
 15 worker services licensed under Title 37, chapter 22;

16 (h) prescribed drugs, dentures, and prosthetic
 17 devices;

18 (i) prescribed eyeglasses prescribed--by a physician
 19 skilled in--diseases--of--the--eye--or--by--an--optometrist,
 20 whichever the individual may select;

21 (j) other diagnostic, screening, preventive,
 22 rehabilitative, chiropractic, and osteopathic services;

23 (k) inpatient psychiatric hospital services for
 24 persons under 21 years of age;

25 ~~(k)(1)~~ any additional medical service or aid allowable

under or provided by the federal Social Security Act.

(4) The department may implement, as provided for in Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(5) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(6) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost effective.

(7) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended.

(8) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(9) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(10) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted thereunder."

Section 2. Section 53-6-103, MCA, is amended to read:

"53-6-103. State plan and operation of medical assistance to be in effect and uniform throughout state. ~~It is hereby mandatory and required that the state plan and operation of medical assistance~~ The Montana medicaid program, except for those services provided under part 4 of this chapter, shall be in effect in each and every county of the state, and the administration and supervision of ~~medical assistance~~ the program shall be uniform throughout the several counties of the state. However, the department of social and rehabilitation services may implement temporary or demonstration programs as permitted by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended."

Section 3. Section 53-6-104, MCA, is amended to read:

"53-6-104. Freedom of doctors to treat recipients of medical assistance -- freedom to select doctor. (1) The department of social and rehabilitation services shall provide for professional freedom of those licensed practitioners who provide medical assistance under this part and provide reasonable freedom of choice to recipients of

1 medical aid to select the vendor or provider of medical
2 care, services, or prescribed drugs.

3 (2) Nothing in this section may be construed to
4 prohibit the department from imposing conditions on the
5 payment of provider services and the receipt of medical
6 assistance, as provided for under 53-6-111, and 53-6-113
7 through 53-6-115, ~~and 53-6-111.~~"

8 NEW SECTION. **Section 4. Health care facilities,**
9 **standards, sanctions, and penalties -- definitions.** (1) For
10 purposes of this section, the following definitions apply:

11 (a) "Department" means the department of social and
12 rehabilitation services.

13 (b) "Health care facility" means a health care
14 facility as defined in 50-5-101.

15 (2) The department and the department of health and
16 environmental sciences may enter into agreements with
17 appropriate federal agencies for the purpose of certifying
18 health care facilities for the Montana medicaid program.

19 (3) The department of health and environmental
20 sciences shall adopt rules prescribing minimum standards for
21 the maintenance and operation of health care facilities,
22 including standards for the quality of care provided by
23 those facilities receiving reimbursement under the Montana
24 medicaid program. These standards must include, as a
25 minimum, those requirements imposed upon health care

1 facilities by Title XIX of the federal Social Security Act
2 (42 U.S.C. 1396, et seq.), as may be amended, and by the
3 implementing regulations contained in 42 CFR 430, et seq.,
4 as may be amended. The authority to prescribe standards and
5 adopt rules under this section is in addition to the
6 authority granted to the department of health and
7 environmental sciences pursuant to Title 50, chapter 5.

8 (4) Standards adopted by the department of health and
9 environmental sciences may include but are not limited to
10 requirements in the following areas: staffing, fire
11 protection, health and safety, food and nutrition,
12 environmental and sanitation, administration, admission
13 policies, patient care planning, training, medication,
14 health services, rehabilitation services, and social
15 services and activities.

16 (5) The department may suspend, terminate, or refuse
17 to renew an agreement with a health care facility that has
18 failed to meet the requirements for certification adopted
19 for the Montana medicaid program under this section. The
20 department may also impose sanctions in the form of denial
21 of medicaid payments for new admissions or other penalties
22 as described in 53-6-111.

23 (6) The department may impose a civil monetary
24 penalty, with interest not to exceed 12% per annum, for each
25 day that a facility is substantially out of compliance with

standards adopted by the department of health and environmental sciences under the authority of Title 50, chapter 5, or this section. Penalties must be collected by the department and may be applied to the protection of the health and property of residents of health care facilities that the department finds deficient, including payment for the costs of relocation of residents to other facilities, operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(7) The department may appoint temporary management personnel to oversee the operation of the facility and to assure the health and safety of the facility's residents if there is a need for temporary management because:

(a) an orderly closure of the facility is necessary; or

(b) improvements are being made to bring the facility into compliance with applicable standards.

(8) The department shall, in the case of an emergency, close the facility or transfer residents in the facility to other facilities, or both.

(9) The department shall adopt rules governing the application of sanctions or remedies imposed under subsections (5) through (8), the amounts of any fines, and the severity of each of these sanctions or remedies. The

rules must be designed for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. The civil penalty for violation of the standards adopted by the department of health and environmental sciences or those federal standards established in subsection (2) may not exceed \$1,000 for each day the deficiency remains uncorrected. A health care facility aggrieved by an action of the department may request a hearing pursuant to Title 2, chapter 4, part 6.

Section 5. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department of social and rehabilitation services shall adopt appropriate rules ~~not--inconsistent--with--this--part--to administer--and--supervise--the--program--uniformly--throughout the--state--and--shall--define--medical--assistance--by--rules. Medical--assistance--shall--be--furnished--through--payments--to providers--of--services--and--supplies--as--contemplated--in--this part~~ necessary for the administration of the Montana medicaid program as provided for in this part and as may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as amended.

(2) The department shall adopt rules as are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services

utilized are medically necessary and that these services are the most efficient and cost effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set such rates of reimbursement as it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part."

Section 6. Section 53-6-401, MCA, is amended to read:

"53-6-401. Definitions. As used in this part, the

following definitions apply:

(1) "Community-based medicaid services" means those long-term medical, habilitative, rehabilitative, and other services that are available to medicaid-eligible persons in a community setting or in a person's home as a substitute for medicaid services provided in long-term care facilities and that are allowed under the state medicaid plan in order to avoid institutionalization.

(2) "Department" means the department of social and rehabilitation services as provided for in Title 2, chapter 15, part 22.

(3) "Long-term care facilities" means facilities that are certified by the department of health and environmental sciences to provide skilled or intermediate nursing care services, including intermediate nursing care services for the developmentally disabled.

(4) "Long-term care medicaid services" means community-based medicaid services and those medicaid services provided in long-term care facilities.

(5) "Long-term care placement-evaluation preadmission screening and resident review" means an evaluation that results in a determination as to whether a person requires the ~~level--of--care~~ services provided in long-term care facilities and whether community-based medicaid services would be an appropriate substitute for medicaid services

that are available in long-term care facilities."

Section 7. Section 53-6-402, MCA, is amended to read:

"53-6-402. **Community-based long-term care facilities -- powers and duties of department.** (1) The department may operate, for persons eligible for medicaid, a program of community-based services as an alternative to long-term care facility services in accordance with the provisions of Title XIX of the Social Security Act, ~~as that title reads on July 17, 1983, and 42 CFR, parts 435 and 441, as those parts read on July 17, 1983~~ as may be amended.

(2) The department may conduct long-term care ~~placement--evaluations~~ preadmission screenings and resident reviews. Long-term care ~~placement--evaluations~~ preadmission screenings and resident reviews are required for all medicaid-eligible persons entering long-term care facilities and community-based services and for all persons who become eligible for medicaid after entering long-term care facilities, before payment for services in such settings are authorized under medicaid. ~~Evaluations~~ Preadmission screenings and resident review of persons not applying for medical assistance under this part must be on a voluntary basis, except as required under the Social Security Act.

(3) The department shall annually advise medical doctors and current residents of long-term care facilities of the program provided in subsection (1).

(4) The department may adopt rules necessary to implement a program of community-based medicaid services and to establish a system of long-term care ~~placement evaluations~~ preadmission screenings and resident reviews as part of that program."

NEW SECTION. **Section 8.** Repealer. Sections 53-6-102 and 53-6-141, MCA, are repealed.

NEW SECTION. **Section 9.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** Codification instruction. [Section 4] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 4].

NEW SECTION. **Section 11.** Effective date. [This act] is effective on passage and approval.

-End-

1 HOUSE BILL NO. 452

2 INTRODUCED BY CODY, COBB, MANNING, NISBET, SQUIRES,
3 MARKS, JACOBSON, MERCER, STRIZICH, HARPER, BOHARSKI,
4 GRINDE, J. BROWN, HANSEN, VINCENT, QUILICI
5 BY REQUEST OF THE DEPARTMENT OF SOCIAL
6 AND REHABILITATION SERVICES
7

8 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
9 CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM;
10 AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113,
11 53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND
12 53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 [sections 4 and 5] grant authority to the department of
17 social and rehabilitation services and to the department of
18 health and environmental sciences to adopt rules to
19 administer and supervise services provided under the Montana
20 medicaid program.

21 The bill expands the existing rulemaking authority of
22 the department of social and rehabilitation services under
23 [section 5] and provides new authority for the department to
24 adopt rules under [section 4] governing the application of
25 sanctions or action against health care facilities that fail

1 to meet the requirements for certification as a medicaid
2 service provider. Under [section 5], the department is
3 authorized to establish rules necessary for reimbursement or
4 payment of medicaid service providers. It is intended that
5 these rules address the types of medical services that are
6 eligible for medicaid reimbursement; the nature, amount,
7 scope, and duration of services; the rates for reimbursement
8 of services, and the department's interaction with medicaid
9 service providers.

10 Rules adopted under [sections 4 and 5] should be in
11 accordance with federal regulations applicable to the
12 medicaid program under Title XIX of the federal Social
13 Security Act. In establishing rules on the scope of services
14 and the rates for reimbursement of services, the department
15 of social and rehabilitation services should consider the
16 amount of funds appropriated by the legislature for the
17 Montana medicaid program. The department should also
18 consider the need to provide for services in an efficient
19 and cost-effective manner.

20 In adopting rules governing the provision of medicaid
21 services, the department of social and rehabilitation
22 services shall take particular care to provide only those
23 services that are medically necessary and to ensure that
24 such services are provided in the least costly setting and
25 by the most efficient and cost-effective means. For example,

1 hospital treatment should not be provided if adequate but
2 less costly nursing home or physician's office services are
3 available.

4 Under [section 4], the department of social and
5 rehabilitation services and the department of health and
6 environmental sciences are given authority to establish
7 standards for the health, safety, and care provided in a
8 health care facility. This authority is intended to be in
9 addition to existing authority of the department of health
10 and environmental sciences under Title 50 of the Montana
11 Code Annotated.

12 Pursuant to [section 4], the department of social and
13 rehabilitation services shall adopt rules establishing
14 appropriate sanctions or action that may be taken against a
15 health care facility that does not meet the minimum
16 standards for certification as a medicaid provider. Such
17 sanctions or action may include civil monetary penalties
18 with interest, the suspension and termination of medicaid
19 certification, and the appointment of management personnel
20 to oversee the operation of a health care facility on a
21 temporary basis in the case of an emergency or when
22 necessary for the orderly closure of a facility or to bring
23 a facility into compliance with minimum standards. This
24 authority is in addition to the authority provided to the
25 department under section 53-6-111, MCA.

1 The bill also provides the department of social and
2 rehabilitation services authority to adopt rules
3 establishing eligibility for medicaid payment of premiums on
4 behalf of individuals eligible for medicare under Title
5 XVIII of the federal Social Security Act. It is intended
6 that these rules establish the conditions for payments by
7 the department to the federal government for supplemental
8 insurance coverage provided under medicare.

9 Finally, the bill grants the department of social and
10 rehabilitation services authority to adopt rules for the
11 implementation of local demonstration programs, which would
12 not be available to all residents of the state. The purpose
13 of these demonstration programs is to provide for the
14 delivery of different medical services to different classes
15 of medically indigent persons on a trial basis in order to
16 assess the efficiency or cost-effectiveness of providing
17 alternative services.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 53-6-101, MCA, is amended to read:

21 "53-6-101. Definition--of--medical--assistance Montana
22 medicaid program -- authorization of services. (1) There is
23 a Montana medicaid program established for the purpose of
24 providing necessary medical services to eligible persons who
25 have need for medical assistance. The Montana medicaid

1 program is a joint federal-state program administered under
 2 this chapter and in accordance with Title XIX of the federal
 3 Social Security Act (42 U.S.C. 1396, et seq.), as may be
 4 amended. The department of social and rehabilitation
 5 services shall administer the Montana medicaid program.

6 ~~{1}(2)~~ Medical assistance
 7 shall include provided by the Montana medicaid program
 8 includes the following services:

- 9 (a) inpatient hospital services;
- 10 (b) outpatient hospital services;
- 11 (c) other laboratory and x-ray services;
- 12 (d) skilled nursing home services in long-term care
 13 facilities;
- 14 (e) physicians' services, ~~whether furnished in the~~
 15 ~~office, the patient's home, a hospital, a skilled nursing~~
 16 ~~home, or elsewhere; and~~
- 17 (f) ~~services provided by nurse specialists, specialist~~
 18 ~~services as specifically listed in 37-8-202(5), within the~~
 19 ~~scope of their practice and that are otherwise directly~~
 20 ~~reimbursed as allowed under department rule to an existing~~
 21 ~~provider;~~
- 22 (g) early and periodic screening, diagnosis, and
 23 treatment services for persons under 21 years of age.
- 24 ~~{2}(3)~~ It Medical assistance provided by the Montana
 25 medicaid program may, as provided by department rule, also

1 ~~include, although not necessarily limited to, the following~~
 2 ~~services:~~

- 3 (a) medical care or any other type of remedial care
 4 recognized under state law, furnished by licensed
 5 practitioners within the scope of their practice as defined
 6 by state law;
- 7 (b) home health care services;
- 8 (c) private-duty nursing services;
- 9 (d) dental services;
- 10 (e) physical therapy and other related services;
- 11 (f) ~~clinic~~ mental health center services administered
 12 and funded under a state mental health program authorized
 13 under Title 53, chapter 21, part 2;
- 14 (g) ~~services provided by clinical social workers~~
 15 ~~worker services licensed under Title 37, chapter 22;~~
- 16 (h) prescribed drugs, dentures, and prosthetic
 17 devices;
- 18 (i) prescribed eyeglasses prescribed by a physician
 19 skilled in diseases of the eye or by an optometrist,
 20 whichever the individual may select;
- 21 (j) other diagnostic, screening, preventive,
 22 rehabilitative, chiropractic, and osteopathic services;
- 23 (k) inpatient psychiatric hospital services for
 24 persons under 21 years of age;
- 25 ~~{k}(1)~~ any additional medical service or aid allowable

under or provided by the federal Social Security Act.

(4) The department may implement, as provided for in Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(5) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(6) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost effective.

(7) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended.

(8) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(9) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(10) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted thereunder."

Section 2. Section 53-6-103, MCA, is amended to read:

"53-6-103. State plan and operation of medical assistance to be in effect and uniform throughout state. ~~It is hereby mandatory and required that the state plan and operation of medical assistance~~ The Montana medicaid program, except for those services provided under part 4 of this chapter, shall be in effect in each and every county of the state, and the administration and supervision of ~~medical assistance~~ the program shall be uniform throughout the several counties of the state. However, the department of social and rehabilitation services may implement temporary or demonstration programs as permitted by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended."

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"53-6-104. Freedom of doctors to treat recipients of medical assistance -- freedom to select doctor. (1) The department of social and rehabilitation services shall provide for professional freedom of those licensed practitioners who provide medical assistance under this part and provide reasonable freedom of choice to recipients of

1 medical aid to select the vendor or provider of medical
2 care, services, or prescribed drugs.

3 (2) Nothing in this section may be construed to
4 prohibit the department from imposing conditions on the
5 payment of provider services and the receipt of medical
6 assistance, as provided for under 53-6-111, and 53-6-113
7 through 53-6-115, ~~and 53-6-141.~~"

8 **NEW SECTION. Section 4. Health care facilities,**
9 **standards, sanctions, and penalties -- definitions.** (1) For
10 purposes of this section, the following definitions apply:

11 (a) "Department" means the department of social and
12 rehabilitation services.

13 (b) "Health care facility" means a health care
14 facility as defined in 50-5-101.

15 (2) The department and the department of health and
16 environmental sciences may enter into agreements with
17 appropriate federal agencies for the purpose of certifying
18 health care facilities for the Montana medicaid program.

19 (3) The department of health and environmental
20 sciences shall adopt rules prescribing minimum standards for
21 the maintenance and operation of health care facilities,
22 including standards for the quality of care provided by
23 those facilities receiving reimbursement under the Montana
24 medicaid program. These standards must include, as a
25 minimum, those requirements imposed upon health care

1 facilities by Title XIX of the federal Social Security Act
2 (42 U.S.C. 1396, et seq.), as may be amended, and by the
3 implementing regulations contained in 42 CFR 430, et seq.,
4 as may be amended. The authority to prescribe standards and
5 adopt rules under this section is in addition to the
6 authority granted to the department of health and
7 environmental sciences pursuant to Title 50, chapter 5.

8 (4) Standards adopted by the department of health and
9 environmental sciences may include but are not limited to
10 requirements in the following areas: staffing, fire
11 protection, health and safety, food and nutrition,
12 environmental and sanitation, administration, admission
13 policies, patient care planning, training, medication,
14 health services, rehabilitation services, and social
15 services and activities.

16 (5) The department may suspend, terminate, or refuse
17 to renew an agreement with a health care facility that has
18 failed to meet the requirements for certification adopted
19 for the Montana medicaid program under this section. The
20 department may also impose sanctions in the form of denial
21 of medicaid payments for new admissions or other penalties
22 as described in 53-6-111.

23 (6) The department may impose a civil monetary
24 penalty, with interest not to exceed 12% per annum, for each
25 day that a facility is substantially out of compliance with

standards adopted by the department of health and environmental sciences under the authority of Title 50, chapter 5, or this section. Penalties must be collected by the department and may be applied to the protection of the health and property of residents of health care facilities that the department finds deficient, including payment for the costs of relocation of residents to other facilities, operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

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(8) The department shall, in the case of an emergency, close the facility or transfer residents in the facility to other facilities, or both.

(9) The department shall adopt rules governing the application of sanctions or remedies imposed under subsections (5) through (8), the amounts of any fines, and the severity of each of these sanctions or remedies. The

rules must be designed for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. The civil penalty for violation of the standards adopted by the department of health and environmental sciences or those federal standards established in subsection (2) may not exceed \$1,000 for each day the deficiency remains uncorrected. A health care facility aggrieved by an action of the department may request a hearing pursuant to Title 2, chapter 4, part 6.

Section 5. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department of social and rehabilitation services shall adopt appropriate rules ~~not inconsistent with this part to administer and supervise the program uniformly throughout the state and shall define medical assistance by rules. Medical assistance shall be furnished through payments to providers of services and supplies as contemplated in this part~~ necessary for the administration of the Montana medicaid program as provided for in this part and as may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as amended.

(2) The department shall adopt rules as are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services

utilized are medically necessary and that these services are the most efficient and cost effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set such rates of reimbursement as it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part."

Section 6. Section 53-6-401, MCA, is amended to read:

"53-6-401. Definitions. As used in this part, the

following definitions apply:

(1) "Community-based medicaid services" means those long-term medical, habilitative, rehabilitative, and other services that are available to medicaid-eligible persons in a community setting or in a person's home as a substitute for medicaid services provided in long-term care facilities and that are allowed under the state medicaid plan in order to avoid institutionalization.

(2) "Department" means the department of social and rehabilitation services as provided for in Title 2, chapter 15, part 22.

(3) "Long-term care facilities" means facilities that are certified by the department of health and environmental sciences to provide skilled or intermediate nursing care services, including intermediate nursing care services for the developmentally disabled.

(4) "Long-term care medicaid services" means community-based medicaid services and those medicaid services provided in long-term care facilities.

(5) "Long-term care placement-evaluation preadmission screening and resident review" means an evaluation that results in a determination as to whether a person requires the ~~level-of-care~~ services provided in long-term care facilities and whether community-based medicaid services would be an appropriate substitute for medicaid services

that are available in long-term care facilities."

Section 7. Section 53-6-402, MCA, is amended to read:

"53-6-402. Community-based long-term care facilities -- powers and duties of department. (1) The department may operate, for persons eligible for medicaid, a program of community-based services as an alternative to long-term care facility services in accordance with the provisions of Title XIX of the Social Security Act, ~~as that title reads on July 17, 1983, and 42 CFR, parts 435 and 441, as those parts read on July 17, 1983~~ as may be amended.

(2) The department may conduct long-term care ~~placement--evaluations~~ preadmission screenings and resident reviews. Long-term care ~~placement-evaluations~~ preadmission screenings and resident reviews are required for all medicaid-eligible persons entering long-term care facilities and community-based services and for all persons who become eligible for medicaid after entering long-term care facilities, before payment for services in such settings are authorized under medicaid. ~~Evaluations~~ Preadmission screenings and resident review of persons not applying for medical assistance under this part must be on a voluntary basis, except as required under the Social Security Act.

(3) The department shall annually advise medical doctors and current residents of long-term care facilities of the program provided in subsection (1).

(4) The department may adopt rules necessary to implement a program of community-based medicaid services and to establish a system of long-term care ~~placement evaluations preadmission screenings and resident reviews~~ as part of that program."

NEW SECTION. **Section 8.** Repealer. Sections 53-6-102 and 53-6-141, MCA, are repealed.

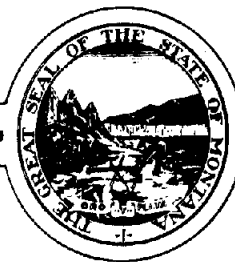
NEW SECTION. **Section 9.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** Codification instruction. [Section 4] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 4].

NEW SECTION. **Section 11.** Effective date. [This act] is effective on passage and approval.

-End-

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING



STAN STEPHENS, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

MEMORANDUM

TO: Senator Jack E. Galt
President of the Senate

FROM: Dave Lewis, Director *Dave Lewis*
Office of Budget and Program Planning

RE: Fiscal Impact of HB452, third reading copy with proposed amendments.

DATE: March 21, 1989

These are the assumptions used in determining the expected fiscal impact for the proposed amendments to HB452 to add professional counselors as medicaid providers.

1. The Department of Social and Rehabilitation Services will have to add a new provider group to the computerized payment system at a cost of \$60,000, of which 25% is state funded.
2. It is assumed that the benefit cost to add counselors will be the same as that incurred when social workers were added in FY87.
3. The benefit cost estimate is for services that are not being provided now and do not include services now provided in clinical settings such as mental health centers.
4. The Department of Health and Environmental Sciences will incur costs of \$8,374 in FY90 to write and publish rules for the new service.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY90</u>	<u>FY91</u>
Operating costs	\$ 68,374	\$ 0
Benefits	200,000	200,000
Total	\$268,374	\$200,000

Funding:

General fund	\$ 81,034	\$ 57,440
Federal funds	187,340	142,560
Total	\$268,374	\$200,000

*NOTE: HB 452 adds professional counseling as an optional service. If SRS decides to add the service, the cost would be \$268,374 in FY90 and \$200,000 in FY91.

Rep. Anthony G. Cody
3/21/89

SENATE STANDING COMMITTEE REPORT

April 6, 1989

MR. PRESIDENT:

We, your committee on Finance and Claims, having had under consideration HB 452 (third reading copy -- blue), respectfully report that HB 452 be amended and as so amended be concurred in:

Sponsor: Cody (Van Valkenburg)

1. Page 6, line 25.

Following: line 24

Insert: "(1) services of professional counselors licensed under Title 37, Chapter 23;"

Renumber: subsequent subsection

AND AS AMENDED BE CONCURRED IN

Signed: _____



Pete Story, Chairman

**SENATE
HB 452**

1 HOUSE BILL NO. 452

2 INTRODUCED BY CODY, COBB, MANNING, NISBET, SQUIRES,
3 MARKS, JACOBSON, MERCER, STRIZICH, HARPER, BOHARSKI,
4 GRINDE, J. BROWN, HANSEN, VINCENT, QUILICI
5 BY REQUEST OF THE DEPARTMENT OF SOCIAL
6 AND REHABILITATION SERVICES
7

8 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
9 CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM;
10 AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113,
11 53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND
12 53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 [sections 4 and 5] grant authority to the department of
17 social and rehabilitation services and to the department of
18 health and environmental sciences to adopt rules to
19 administer and supervise services provided under the Montana
20 medicaid program.

21 The bill expands the existing rulemaking authority of
22 the department of social and rehabilitation services under
23 [section 5] and provides new authority for the department to
24 adopt rules under [section 4] governing the application of
25 sanctions or action against health care facilities that fail

1 to meet the requirements for certification as a medicaid
2 service provider. Under [section 5], the department is
3 authorized to establish rules necessary for reimbursement or
4 payment of medicaid service providers. It is intended that
5 these rules address the types of medical services that are
6 eligible for medicaid reimbursement; the nature, amount,
7 scope, and duration of services; the rates for reimbursement
8 of services, and the department's interaction with medicaid
9 service providers.

10 Rules adopted under [sections 4 and 5] should be in
11 accordance with federal regulations applicable to the
12 medicaid program under Title XIX of the federal Social
13 Security Act. In establishing rules on the scope of services
14 and the rates for reimbursement of services, the department
15 of social and rehabilitation services should consider the
16 amount of funds appropriated by the legislature for the
17 Montana medicaid program. The department should also
18 consider the need to provide for services in an efficient
19 and cost-effective manner.

20 In adopting rules governing the provision of medicaid
21 services, the department of social and rehabilitation
22 services shall take particular care to provide only those
23 services that are medically necessary and to ensure that
24 such services are provided in the least costly setting and
25 by the most efficient and cost-effective means. For example,

1 hospital treatment should not be provided if adequate but
2 less costly nursing home or physician's office services are
3 available.

4 Under [section 4], the department of social and
5 rehabilitation services and the department of health and
6 environmental sciences are given authority to establish
7 standards for the health, safety, and care provided in a
8 health care facility. This authority is intended to be in
9 addition to existing authority of the department of health
10 and environmental sciences under Title 50 of the Montana
11 Code Annotated.

12 Pursuant to [section 4], the department of social and
13 rehabilitation services shall adopt rules establishing
14 appropriate sanctions or action that may be taken against a
15 health care facility that does not meet the minimum
16 standards for certification as a medicaid provider. Such
17 sanctions or action may include civil monetary penalties
18 with interest, the suspension and termination of medicaid
19 certification, and the appointment of management personnel
20 to oversee the operation of a health care facility on a
21 temporary basis in the case of an emergency or when
22 necessary for the orderly closure of a facility or to bring
23 a facility into compliance with minimum standards. This
24 authority is in addition to the authority provided to the
25 department under section 53-6-111, MCA.

1 The bill also provides the department of social and
2 rehabilitation services authority to adopt rules
3 establishing eligibility for medicaid payment of premiums on
4 behalf of individuals eligible for medicare under Title
5 XVIII of the federal Social Security Act. It is intended
6 that these rules establish the conditions for payments by
7 the department to the federal government for supplemental
8 insurance coverage provided under medicare.

9 Finally, the bill grants the department of social and
10 rehabilitation services authority to adopt rules for the
11 implementation of local demonstration programs, which would
12 not be available to all residents of the state. The purpose
13 of these demonstration programs is to provide for the
14 delivery of different medical services to different classes
15 of medically indigent persons on a trial basis in order to
16 assess the efficiency or cost-effectiveness of providing
17 alternative services.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 53-6-101, MCA, is amended to read:

21 "53-6-101. Definition--of--medical--assistance Montana
22 medicaid program -- authorization of services. (1) There is
23 a Montana medicaid program established for the purpose of
24 providing necessary medical services to eligible persons who
25 have need for medical assistance. The Montana medicaid

1 program is a joint federal-state program administered under
 2 this chapter and in accordance with Title XIX of the federal
 3 Social Security Act (42 U.S.C. 1396, et seq.), as may be
 4 amended. The department of social and rehabilitation
 5 services shall administer the Montana medicaid program.

6 ~~{1}(2)~~ The definition of medical assistance
 7 shall include provided by the Montana medicaid program
 8 includes the following services:

9 (a) inpatient hospital services;
 10 (b) outpatient hospital services;
 11 (c) other laboratory and x-ray services;
 12 (d) skilled nursing home services in long-term care
 13 facilities;

14 (e) physicians' services, ~~whether furnished in the~~
 15 ~~office, the patient's home, a hospital, a skilled nursing~~
 16 ~~home, or elsewhere; and~~

17 (f) ~~services provided by nurse specialists, specialist~~
 18 ~~services as specifically listed in 37-8-202(5), within the~~
 19 ~~scope of their practice and that are otherwise directly~~
 20 ~~reimbursed as allowed under department rule to an existing~~
 21 ~~provider;~~

22 (g) early and periodic screening, diagnosis, and
 23 treatment services for persons under 21 years of age.

24 ~~{2}(3)~~ It Medical assistance provided by the Montana
 25 medicaid program may, as provided by department rule, also

1 ~~include, although not necessarily limited to, the following~~
 2 ~~services:~~

3 (a) medical care or any other type of remedial care
 4 recognized under state law, furnished by licensed
 5 practitioners within the scope of their practice as defined
 6 by state law;

7 (b) home health care services;

8 (c) private-duty nursing services;

9 (d) dental services;

10 (e) physical therapy ~~and other related~~ services;

11 (f) clinic mental health center services administered
 12 and funded under a state mental health program authorized
 13 under Title 53, chapter 21, part 2;

14 (g) ~~services provided by clinical social workers~~
 15 ~~worker services licensed under Title 37, chapter 22;~~

16 (h) prescribed drugs, dentures, and prosthetic
 17 devices;

18 (i) prescribed eyeglasses prescribed by a physician
 19 skilled in diseases of the eye or by an optometrist,
 20 whichever the individual may select;

21 (j) other diagnostic, screening, preventive,
 22 rehabilitative, chiropractic, and osteopathic services;

23 (k) inpatient psychiatric hospital services for
 24 persons under 21 years of age;

25 (L) SERVICES OF PROFESSIONAL COUNSELORS LICENSED UNDER

1 TITLE 37, CHAPTER 23;

2 ~~†*†††(M)~~ any additional medical service or aid
3 allowable under or provided by the federal Social Security
4 Act.

5 (4) The department may implement, as provided for in
6 Title XIX of the federal Social Security Act (42 U.S.C.
7 1396, et seq.), as may be amended, a program under medicaid
8 for payment of medicare premiums, deductibles, and
9 coinsurance for persons not otherwise eligible for medicaid.

10 (5) The department may set rates for medical and other
11 services provided to recipients of medicaid and may enter
12 into contracts for delivery of services to individual
13 recipients or groups of recipients.

14 (6) The services provided under this part may be only
15 those that are medically necessary and that are the most
16 efficient and cost effective.

17 (7) The amount, scope, and duration of services
18 provided under this part must be determined by the
19 department in accordance with Title XIX of the federal
20 Social Security Act (42 U.S.C. 1396, et seq.), as may be
21 amended.

22 (8) Services, procedures, and items of an experimental
23 or cosmetic nature may not be provided.

24 (9) If available funds are not sufficient to provide
25 medical assistance for all eligible persons, the department

1 may set priorities to limit, reduce, or otherwise curtail
2 the amount, scope, or duration of the medical services made
3 available under the Montana medicaid program.

4 (10) Community-based medicaid services, as provided for
5 in part 4 of this chapter, must be provided in accordance
6 with the provisions of this chapter and the rules adopted
7 thereunder."

8 **Section 2.** Section 53-6-103, MCA, is amended to read:

9 "53-6-103. State plan and operation of medical
10 assistance to be in effect and uniform throughout state. It
11 ~~is hereby mandatory and required that the state plan and~~
12 ~~operation of medical assistance~~ The Montana medicaid
13 program, except for those services provided under part 4 of
14 this chapter, shall be in effect in each and every county
15 of the state, and the administration and supervision of
16 ~~medical assistance~~ the program shall be uniform throughout
17 the several counties of the state. However, the department
18 of social and rehabilitation services may implement
19 temporary or demonstration programs as permitted by Title
20 XIX of the federal Social Security Act (42 U.S.C. 1396, et
21 seq.), as may be amended."

22 **Section 3.** Section 53-6-104, MCA, is amended to read:

23 "53-6-104. Freedom of doctors to treat recipients of
24 medical assistance -- freedom to select doctor. (1) The
25 department of social and rehabilitation services shall

provide for professional freedom of those licensed practitioners who provide medical assistance under this part and provide reasonable freedom of choice to recipients of medical aid to select the vendor or provider of medical care, services, or prescribed drugs.

(2) Nothing in this section may be construed to prohibit the department from imposing conditions on the payment of provider services and the receipt of medical assistance, as provided for under 53-6-1117 and 53-6-113 through 53-6-1157-~~and~~53-6-141."

NEW SECTION. Section 4. Health care facilities, standards, sanctions, and penalties -- definitions. (1) For purposes of this section, the following definitions apply:

(a) "Department" means the department of social and rehabilitation services.

(b) "Health care facility" means a health care facility as defined in 50-5-101.

(2) The department and the department of health and environmental sciences may enter into agreements with appropriate federal agencies for the purpose of certifying health care facilities for the Montana medicaid program.

(3) The department of health and environmental sciences shall adopt rules prescribing minimum standards for the maintenance and operation of health care facilities, including standards for the quality of care provided by

those facilities receiving reimbursement under the Montana medicaid program. These standards must include, as a minimum, those requirements imposed upon health care facilities by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, and by the implementing regulations contained in 42 CFR 430, et seq., as may be amended. The authority to prescribe standards and adopt rules under this section is in addition to the authority granted to the department of health and environmental sciences pursuant to Title 50, chapter 5.

(4) Standards adopted by the department of health and environmental sciences may include but are not limited to requirements in the following areas: staffing, fire protection, health and safety, food and nutrition, environmental and sanitation, administration, admission policies, patient care planning, training, medication, health services, rehabilitation services, and social services and activities.

(5) The department may suspend, terminate, or refuse to renew an agreement with a health care facility that has failed to meet the requirements for certification adopted for the Montana medicaid program under this section. The department may also impose sanctions in the form of denial of medicaid payments for new admissions or other penalties as described in 53-6-111.

(6) The department may impose a civil monetary penalty, with interest not to exceed 12% per annum, for each day that a facility is substantially out of compliance with standards adopted by the department of health and environmental sciences under the authority of Title 50, chapter 5, or this section. Penalties must be collected by the department and may be applied to the protection of the health and property of residents of health care facilities that the department finds deficient, including payment for the costs of relocation of residents to other facilities, operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(7) The department may appoint temporary management personnel to oversee the operation of the facility and to assure the health and safety of the facility's residents if there is a need for temporary management because:

- (a) an orderly closure of the facility is necessary;
- or
- (b) improvements are being made to bring the facility into compliance with applicable standards.

(8) The department shall, in the case of an emergency, close the facility or transfer residents in the facility to other facilities, or both.

(9) The department shall adopt rules governing the

application of sanctions or remedies imposed under subsections (5) through (8), the amounts of any fines, and the severity of each of these sanctions or remedies. The rules must be designed for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. The civil penalty for violation of the standards adopted by the department of health and environmental sciences or those federal standards established in subsection (2) may not exceed \$1,000 for each day the deficiency remains uncorrected. A health care facility aggrieved by an action of the department may request a hearing pursuant to Title 2, chapter 4, part 6.

Section 5. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department of social and rehabilitation services shall adopt appropriate rules ~~not inconsistent with this part to administer and supervise the program uniformly throughout the state and shall define medical assistance by rules. Medical assistance shall be furnished through payments to providers of services and supplies as contemplated in this part~~ necessary for the administration of the Montana medicaid program as provided for in this part and as may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as amended.

(2) The department shall adopt rules as are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services utilized are medically necessary and that these services are the most efficient and cost effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set such rates of reimbursement as it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established

by the department for services provided under this part."

Section 6. Section 53-6-401, MCA, is amended to read:

"53-6-401. Definitions. As used in this part, the following definitions apply:

(1) "Community-based medicaid services" means those long-term medical, habilitative, rehabilitative, and other services that are available to medicaid-eligible persons in a community setting or in a person's home as a substitute for medicaid services provided in long-term care facilities and that are allowed under the state medicaid plan in order to avoid institutionalization.

(2) "Department" means the department of social and rehabilitation services as provided for in Title 2, chapter 15, part 22.

(3) "Long-term care facilities" means facilities that are certified by the department of health and environmental sciences to provide skilled or intermediate nursing care services, including intermediate nursing care services for the developmentally disabled.

(4) "Long-term care medicaid services" means community-based medicaid services and those medicaid services provided in long-term care facilities.

(5) "Long-term care placement-evaluation preadmission screening and resident review" means an evaluation that results in a determination as to whether a person requires

1 the ~~level--of--care~~ services provided in long-term care
2 facilities and whether community-based medicaid services
3 would be an appropriate substitute for medicaid services
4 that are available in long-term care facilities."

5 **Section 7.** Section 53-6-402, MCA, is amended to read:

6 "53-6-402. Community-based long-term care facilities
7 -- powers and duties of department. (1) The department may
8 operate, for persons eligible for medicaid, a program of
9 community-based services as an alternative to long-term care
10 facility services in accordance with the provisions of Title
11 XIX of the Social Security Act, ~~as that title reads on July~~
12 ~~17--1983, and 42-CFR, parts 435 and 441, as those parts read~~
13 ~~on July 17, 1983~~ as may be amended.

14 (2) The department may conduct long-term care
15 ~~placement--evaluations~~ preadmission screenings and resident
16 reviews. Long-term care ~~placement--evaluations~~ preadmission
17 screenings and resident reviews are required for all
18 medicaid-eligible persons entering long-term care facilities
19 and community-based services and for all persons who become
20 eligible for medicaid after entering long-term care
21 facilities, before payment for services in such settings are
22 authorized under medicaid. Evaluations Preadmission
23 screenings and resident review of persons not applying for
24 medical assistance under this part must be on a voluntary
25 basis, except as required under the Social Security Act.

1 (3) The department shall annually advise medical
2 doctors and current residents of long-term care facilities
3 of the program provided in subsection (1).

4 (4) The department may adopt rules necessary to
5 implement a program of community-based medicaid services and
6 to establish a system of long-term care placement
7 evaluations preadmission screenings and resident reviews as
8 part of that program."

9 NEW SECTION. **Section 8.** Repealer. Sections 53-6-102
10 and 53-6-141, MCA, are repealed.

11 NEW SECTION. **Section 9.** Extension of authority. Any
12 existing authority to make rules on the subject of the
13 provisions of [this act] is extended to the provisions of
14 [this act].

15 NEW SECTION. **Section 10.** Codification instruction.
16 [Section 4] is intended to be codified as an integral part
17 of Title 53, chapter 6, part 1, and the provisions of Title
18 53, chapter 6, part 1, apply to [section 4].

19 NEW SECTION. **Section 11.** Effective date. [This act]
20 is effective on passage and approval.

-End-

Free Conference Committee
on HOUSE BILL 452
Report No. 1, April 19, 1989

Page 1 of 1

Mr. Speaker/Mr. President:

We, your Free Conference Committee on House Bill 452 met and considered:

House Bill 452 (reference copy -- salmon) in its entirety.

We recommend that House Bill 452 (reference copy -- salmon) be amended as follows:

1. Page 7, line 1.

Following: "23"

Insert: "if funds are specifically appropriated for the inclusion of these services in the Montana medicaid program."

And that this Free Conference Committee Report be adopted.

For the House:

Rep. Dorothy A. Cody
Rep. Dorothy Cody, Chairman

Jerry Nisbet
Rep. Gerald Nisbet

John Cobb
Rep. John Cobb

For the Senate:

Thomas Keating
Sen. Thomas Keating, Chairman

Ethel Harding
Sen. Ethel Harding

Pat Regan
Sen. Pat Regan

ADOPT

REJECT

HB 452



881447CC.HBV

HOUSE BILL NO. 452

INTRODUCED BY CODY, COBB, MANNING, NISBET, SQUIRES,
MARKS, JACOBSON, MERCER, STRIZICH, HARPER, BOHARSKI,
GRINDE, J. BROWN, HANSEN, VINCENT, QUILICI
BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO THE MONTANA MEDICAID PROGRAM;
AMENDING SECTIONS 53-6-101, 53-6-103, 53-6-104, 53-6-113,
53-6-401, AND 53-6-402, MCA; REPEALING SECTIONS 53-6-102 AND
53-6-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[sections 4 and 5] grant authority to the department of
social and rehabilitation services and to the department of
health and environmental sciences to adopt rules to
administer and supervise services provided under the Montana
medicaid program.

The bill expands the existing rulemaking authority of
the department of social and rehabilitation services under
[section 5] and provides new authority for the department to
adopt rules under [section 4] governing the application of
sanctions or action against health care facilities that fail

to meet the requirements for certification as a medicaid
service provider. Under [section 5], the department is
authorized to establish rules necessary for reimbursement or
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these rules address the types of medical services that are
eligible for medicaid reimbursement; the nature, amount,
scope, and duration of services; the rates for reimbursement
of services, and the department's interaction with medicaid
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Rules adopted under [sections 4 and 5] should be in
accordance with federal regulations applicable to the
medicaid program under Title XIX of the federal Social
Security Act. In establishing rules on the scope of services
and the rates for reimbursement of services, the department
of social and rehabilitation services should consider the
amount of funds appropriated by the legislature for the
Montana medicaid program. The department should also
consider the need to provide for services in an efficient
and cost-effective manner.

In adopting rules governing the provision of medicaid
services, the department of social and rehabilitation
services shall take particular care to provide only those
services that are medically necessary and to ensure that
such services are provided in the least costly setting and
by the most efficient and cost-effective means. For example,

1 hospital treatment should not be provided if adequate but
2 less costly nursing home or physician's office services are
3 available.

4 Under [section 4], the department of social and
5 rehabilitation services and the department of health and
6 environmental sciences are given authority to establish
7 standards for the health, safety, and care provided in a
8 health care facility. This authority is intended to be in
9 addition to existing authority of the department of health
10 and environmental sciences under Title 50 of the Montana
11 Code Annotated.

12 Pursuant to [section 4], the department of social and
13 rehabilitation services shall adopt rules establishing
14 appropriate sanctions or action that may be taken against a
15 health care facility that does not meet the minimum
16 standards for certification as a medicaid provider. Such
17 sanctions or action may include civil monetary penalties
18 with interest, the suspension and termination of medicaid
19 certification, and the appointment of management personnel
20 to oversee the operation of a health care facility on a
21 temporary basis in the case of an emergency or when
22 necessary for the orderly closure of a facility or to bring
23 a facility into compliance with minimum standards. This
24 authority is in addition to the authority provided to the
25 department under section 53-6-111, MCA.

1 The bill also provides the department of social and
2 rehabilitation services authority to adopt rules
3 establishing eligibility for medicaid payment of premiums on
4 behalf of individuals eligible for medicare under Title
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6 that these rules establish the conditions for payments by
7 the department to the federal government for supplemental
8 insurance coverage provided under medicare.

9 Finally, the bill grants the department of social and
10 rehabilitation services authority to adopt rules for the
11 implementation of local demonstration programs, which would
12 not be available to all residents of the state. The purpose
13 of these demonstration programs is to provide for the
14 delivery of different medical services to different classes
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16 assess the efficiency or cost-effectiveness of providing
17 alternative services.

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

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23 a Montana medicaid program established for the purpose of
24 providing necessary medical services to eligible persons who
25 have need for medical assistance. The Montana medicaid

1 program is a joint federal-state program administered under
 2 this chapter and in accordance with Title XIX of the federal
 3 Social Security Act (42 U.S.C. 1396, et seq.), as may be
 4 amended. The department of social and rehabilitation
 5 services shall administer the Montana medicaid program.

6 ~~{1}(2)~~ The definition of--medical Medical assistance
 7 ~~shall--include~~ provided by the Montana medicaid program
 8 includes the following services:

9 (a) inpatient hospital services;
 10 (b) outpatient hospital services;
 11 (c) other laboratory and x-ray services;
 12 (d) skilled nursing home services in long-term care
 13 facilities;

14 (e) physicians' services, ~~--whether--furnished--in-the~~
 15 ~~office, the patient's home, a hospital,--a--skilled--nursing~~
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 18 ~~services as--specifically listed in 37-8-202(5), within the~~
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 23 treatment services for persons under 21 years of age.

24 ~~{2}(3)~~ Medical assistance provided by the Montana
 25 medicaid program may, as provided by department rule, also

1 ~~include,--although not necessarily limited to,~~ the following
 2 services:

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 4 recognized under state law, furnished by licensed
 5 practitioners within the scope of their practice as defined
 6 by state law;

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11 (f) clinte mental health center services administered
 12 and funded under a state mental health program authorized
 13 under Title 53, chapter 21, part 2;

14 (g) ~~services---provided--by clinical social workers~~
 15 ~~worker services licensed under Title 37, chapter 22;~~

16 (h) prescribed drugs, dentures, and prosthetic
 17 devices;

18 (i) prescribed eyeglasses ~~prescribed--by a physician~~
 19 ~~skilled in--diseases--of--the--eye--or--by--an--optometrist,~~
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21 (j) other diagnostic, screening, preventive,
 22 rehabilitative, chiropractic, and osteopathic services;

23 (k) inpatient psychiatric hospital services for
 24 persons under 21 years of age;

25 (l.) SERVICES OF PROFESSIONAL COUNSELORS LICENSED UNDER

TITLE 37, CHAPTER 23, IF FUNDS ARE SPECIFICALLY APPROPRIATED FOR THE INCLUSION OF THESE SERVICES IN THE MONTANA MEDICAID PROGRAM;

(M) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) The department may implement, as provided for in Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(5) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(6) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost effective.

(7) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended.

(8) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(9) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(10) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted thereunder."

Section 2. Section 53-6-103, MCA, is amended to read:

"53-6-103. State plan and operation of medical assistance to be in effect and uniform throughout state. It is--hereby--mandatory--and--required--that--the--state--plan--and--operation--of--medical--assistance The Montana medicaid program, except for those services provided under part 4 of this chapter, shall be in effect in each and every county of the state, and the administration and supervision of medical-assistance the program shall be uniform throughout the several counties of the state. However, the department of social and rehabilitation services may implement temporary or demonstration programs as permitted by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.), as may be amended."

Section 3. Section 53-6-104, MCA, is amended to read:

"53-6-104. Freedom of doctors to treat recipients of

1 medical assistance -- freedom to select doctor. (1) The
 2 department of social and rehabilitation services shall
 3 provide for professional freedom of those licensed
 4 practitioners who provide medical assistance under this part
 5 and provide reasonable freedom of choice to recipients of
 6 medical aid to select the vendor or provider of medical
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8 (2) Nothing in this section may be construed to
 9 prohibit the department from imposing conditions on the
 10 payment of provider services and the receipt of medical
 11 assistance, as provided for under 53-6-111, and 53-6-113
 12 through 53-6-115, ~~and 53-6-141.~~"

13 NEW SECTION. Section 4. Health care facilities,
 14 standards, sanctions, and penalties -- definitions. (1) For
 15 purposes of this section, the following definitions apply:

16 (a) "Department" means the department of social and
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18 (b) "Health care facility" means a health care
 19 facility as defined in 50-5-101.

20 (2) The department and the department of health and
 21 environmental sciences may enter into agreements with
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 25 sciences shall adopt rules prescribing minimum standards for

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 5 minimum, those requirements imposed upon health care
 6 facilities by Title XIX of the federal Social Security Act
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 9 as may be amended. The authority to prescribe standards and
 10 adopt rules under this section is in addition to the
 11 authority granted to the department of health and
 12 environmental sciences pursuant to Title 50, chapter 5.

13 (4) Standards adopted by the department of health and
 14 environmental sciences may include but are not limited to
 15 requirements in the following areas: staffing, fire
 16 protection, health and safety, food and nutrition,
 17 environmental and sanitation, administration, admission
 18 policies, patient care planning, training, medication,
 19 health services, rehabilitation services, and social
 20 services and activities.

21 (5) The department may suspend, terminate, or refuse
 22 to renew an agreement with a health care facility that has
 23 failed to meet the requirements for certification adopted
 24 for the Montana medicaid program under this section. The
 25 department may also impose sanctions in the form of denial

1 of medicaid payments for new admissions or other penalties
2 as described in 53-6-111.

3 (6) The department may impose a civil monetary
4 penalty, with interest not to exceed 12% per annum, for each
5 day that a facility is substantially out of compliance with
6 standards adopted by the department of health and
7 environmental sciences under the authority of Title 50,
8 chapter 5, or this section. Penalties must be collected by
9 the department and may be applied to the protection of the
10 health and property of residents of health care facilities
11 that the department finds deficient, including payment for
12 the costs of relocation of residents to other facilities,
13 operation of a facility pending correction of deficiencies
14 or closure, and reimbursement of residents for personal
15 funds lost.

16 (7) The department may appoint temporary management
17 personnel to oversee the operation of the facility and to
18 assure the health and safety of the facility's residents if
19 there is a need for temporary management because:

20 (a) an orderly closure of the facility is necessary;
21 or

22 (b) improvements are being made to bring the facility
23 into compliance with applicable standards.

24 (8) The department shall, in the case of an emergency,
25 close the facility or transfer residents in the facility to

1 other facilities, or both.

2 (9) The department shall adopt rules governing the
3 application of sanctions or remedies imposed under
4 subsections (5) through (8), the amounts of any fines, and
5 the severity of each of these sanctions or remedies. The
6 rules must be designed for the imposition of incrementally
7 more severe fines for repeated or uncorrected deficiencies.
8 The civil penalty for violation of the standards adopted by
9 the department of health and environmental sciences or those
10 federal standards established in subsection (2) may not
11 exceed \$1,000 for each day the deficiency remains
12 uncorrected. A health care facility aggrieved by an action
13 of the department may request a hearing pursuant to Title 2,
14 chapter 4, part 6.

15 **Section 5.** Section 53-6-113, MCA, is amended to read:

16 "53-6-113. Department to adopt rules. (1) The
17 department of social and rehabilitation services shall adopt
18 appropriate rules ~~not--inconsistent--with--this--part--to~~
19 ~~administer--and--supervise--the--program--uniformly--throughout~~
20 ~~the--state--and--shall--define--medical--assistance--by--rules--~~
21 ~~Medical--assistance--shall--be--furnished--through--payments--to~~
22 ~~providers--of--services--and--supplies--as--contemplated--in--this~~
23 part necessary for the administration of the Montana
24 medicaid program as provided for in this part and as may be
25 required by federal laws and regulations governing state

1 participation in medicaid under Title XIX of the federal
 2 Social Security Act (42 U.S.C. 1396, et seq.), as amended.

3 (2) The department shall adopt rules as are necessary
 4 to further define for the purposes of this part the services
 5 provided under 53-6-101 and to provide that services
 6 utilized are medically necessary and that these services are
 7 the most efficient and cost effective available. The rules
 8 may establish the amount, scope, and duration of services
 9 provided under the Montana medicaid program, including the
 10 items and components constituting the services.

11 (3) The department shall establish by rule the rates
 12 for reimbursement of services provided under this part. The
 13 department may in its discretion set such rates of
 14 reimbursement as it determines necessary for the purposes of
 15 the program. In establishing rates of reimbursement, the
 16 department may consider but is not limited to:

17 (a) the availability of appropriated funds;
 18 (b) the actual cost of services;
 19 (c) the quality of services;
 20 (d) the professional knowledge and skills necessary
 21 for the delivery of services; and

22 (e) the availability of services.

23 (4) The department shall specify by rule those
 24 professionals who may deliver or direct the delivery of
 25 particular services.

1 (5) The department may provide by rule for payment by
 2 a recipient of a portion of the reimbursements established
 3 by the department for services provided under this part."

4 **Section 6.** Section 53-6-401, MCA, is amended to read:

5 "53-6-401. Definitions. As used in this part, the
 6 following definitions apply:

7 (1) "Community-based medicaid services" means those
 8 long-term medical, habilitative, rehabilitative, and other
 9 services that are available to medicaid-eligible persons in
 10 a community setting or in a person's home as a substitute
 11 for medicaid services provided in long-term care facilities
 12 and that are allowed under the state medicaid plan in order
 13 to avoid institutionalization.

14 (2) "Department" means the department of social and
 15 rehabilitation services as provided for in Title 2, chapter
 16 15, part 22.

17 (3) "Long-term care facilities" means facilities that
 18 are certified by the department of health and environmental
 19 sciences to provide skilled or intermediate nursing care
 20 services, including intermediate nursing care services for
 21 the developmentally disabled.

22 (4) "Long-term care medicaid services" means
 23 community-based medicaid services and those medicaid
 24 services provided in long-term care facilities.

25 (5) "Long-term care placement-evaluation preadmission

1 screening and resident review" means an evaluation that
 2 results in a determination as to whether a person requires
 3 the ~~level-of-care~~ services provided in long-term care
 4 facilities and whether community-based medicaid services
 5 would be an appropriate substitute for medicaid services
 6 that are available in long-term care facilities."

7 **Section 7.** Section 53-6-402, MCA, is amended to read:

8 "53-6-402. Community-based long-term care facilities
 9 -- powers and duties of department. (1) The department may
 10 operate, for persons eligible for medicaid, a program of
 11 community-based services as an alternative to long-term care
 12 facility services in accordance with the provisions of Title
 13 XIX of the Social Security Act, ~~as that title reads on July~~
 14 ~~17-1983, and 42-CFR, parts 435 and 441, as those parts read~~
 15 ~~on July 17, 1983~~ as may be amended.

16 (2) The department may conduct long-term care
 17 placement-evaluations preadmission screenings and resident
 18 reviews. Long-term care placement-evaluations preadmission
 19 screenings and resident reviews are required for all
 20 medicaid-eligible persons entering long-term care facilities
 21 and community-based services and for all persons who become
 22 eligible for medicaid after entering long-term care
 23 facilities, before payment for services in such settings are
 24 authorized under medicaid. Evaluations Preadmission
 25 screenings and resident review of persons not applying for

1 medical assistance under this part must be on a voluntary
 2 basis, except as required under the Social Security Act.

3 (3) The department shall annually advise medical
 4 doctors and current residents of long-term care facilities
 5 of the program provided in subsection (1).

6 (4) The department may adopt rules necessary to
 7 implement a program of community-based medicaid services and
 8 to establish a system of long-term care placement
 9 evaluations preadmission screenings and resident reviews as
 10 part of that program."

11 NEW SECTION. **Section 8.** Repealer. Sections 53-6-102
 12 and 53-6-141, MCA, are repealed.

13 NEW SECTION. **Section 9.** Extension of authority. Any
 14 existing authority to make rules on the subject of the
 15 provisions of [this act] is extended to the provisions of
 16 [this act].

17 NEW SECTION. **Section 10.** Codification instruction.
 18 [Section 4] is intended to be codified as an integral part
 19 of Title 53, chapter 6, part 1, and the provisions of Title
 20 53, chapter 6, part 1, apply to [section 4].

21 NEW SECTION. **Section 11.** Effective date. [This act]
 22 is effective on passage and approval.

-End-