



Sub. S.B. 4*

127th General Assembly

(As Reported by S. Finance & Financial Institutions)

**Sens. Stivers, Niehaus, D. Miller, Mumper, Spada, Gardner, Padgett,
Goodman, Schaffer, R. Miller, Cafaro**

BILL SUMMARY

MEDICAID BUY-IN FOR WORKERS WITH DISABILITIES PROGRAM

- Requires that the Director of Job and Family Services seek federal approval to establish the Medicaid Buy-In for Workers with Disabilities Program.
- Requires that an individual whose family's income exceeds 150% of the federal poverty guidelines pay an annual premium as a condition of qualifying for the program.
- Permits an individual participating in the program on the basis of being an employed individual with a medically improved disability to continue to participate for up to six months after ceasing to be employed.
- Stipulates that no individual is to be denied eligibility for the program due to receiving home or community-based services under a Medicaid waiver.
- Exempts an individual receiving services under a Medicaid home or community-based services waiver from paying any cost-sharing expenses otherwise applicable under the Medicaid waiver for any period during which the individual also participates in the Medicaid Buy-In for Workers with Disabilities Program.

* This analysis was prepared before the report of the Senate Finance and Financial Institutions Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Stipulates that no individual will have waiver component services reduced or disrupted on the basis of participating in the Medicaid Buy-In for Workers with Disabilities Program, even if the individual's income or assets increase above the limit allowed under the waiver.
- Creates the Medicaid Buy-In Advisory Council.

CONTENT AND OPERATION

MEDICAID BUY-IN FOR WORKERS WITH DISABILITIES PROGRAM

Background

To qualify for federal financial participation, a state's Medicaid program must cover certain populations. Federal law permits, but does not require, that a state's Medicaid program cover additional populations.

The Ticket to Work and Work Incentives Improvement Act of 1999 established two new populations that a state's Medicaid program may cover. However, a state may cover the second population only if it also covers the first. These two optional eligibility expansions are popularly known as the Medicaid buy-in.

The first population consists of individuals who, but for earnings in excess of a limit established under federal law, would be considered to be receiving Supplemental Security Income,¹ are at least age 16 but less than age 65, and have assets, resources, and income not exceeding such limitations, if any, as the state may establish.² The second population consists of employed individuals with a medically improved disability who have assets, resources, and income not exceeding such limitations, if any, as the state may establish.³ An "employed individual with a medically improved disability" is defined as an individual who (1) is at least age 16 but less than age 65, (2) is earning at least the applicable minimum wage requirement specified in federal law and working at least 40 hours per month or is engaged in a work effort that meets substantial and reasonable

¹ Supplemental Security Income (SSI) is a federal program under which monthly payments of up to \$623 are made to qualified disabled individuals who do not have sufficient work history to qualify for disability payments under the Social Security program. See **COMMENT**.

² 42 U.S.C. 1396a(a)(10)(A)(ii)(XV).

³ 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI).

threshold criteria for hours of work, wages, or other measures, (3) ceases to be eligible for Medicaid under the first population described above because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer meet federal definitions of disability, and (4) continues to have a severe medically determinable impairment as determined under federal regulations.⁴

The bill

Seeking federal approval to implement buy-in option

(R.C. 5111.70)

The Director of Job and Family Services is required by the bill to submit an amendment to the state Medicaid plan and any federal waiver necessary to establish a new component of the Medicaid program to be known as the Medicaid Buy-In for Workers with Disabilities Program. The amendment and, if necessary, waiver are to be submitted to the United States Secretary of Health and Human Services not later than 90 days after the bill's effective date. The program is to be established in accordance with the bill and the provision of the Ticket to Work and Work Incentives Improvement Act of 1999 that authorizes the Medicaid buy-in eligibility expansions. The Director is required to implement the program if the amendment and, if necessary, waiver are approved.

Eligibility for Medicaid Buy-In for Workers with Disabilities Program

(R.C. 5111.701, 5111.702, 5111.703, and 5111.707)

To qualify for the Medicaid Buy-In for Workers with Disabilities Program, an individual must apply to participate and provide satisfactory evidence that the individual:

- (1) Is at least age 16 and under age 65;
- (2) Is either considered disabled for the purpose of the Supplemental Security Income (SSI) program (regardless of whether the individual receives SSI benefits) and has earnings from employment or meets the federal definition of "employed individual with a medically improved disability";
- (3) Meets the program's asset and income requirements;

⁴ 42 U.S.C. 1396d(v).

(4) Meets the additional eligibility requirements the Director of Job and Family Services is to establish in rules.⁵

An individual may also have to pay a premium for participating in the program. (See "**Premium requirements**" below.)

Under the program's asset limitation, the value of the assets of an individual's family, less assets and asset value disregarded pursuant to rules the Director is to adopt, cannot exceed \$10,000. However, the Director is required to annually adjust the asset eligibility requirement by the change in the consumer price index for all items for all urban consumers for the previous calendar year, as published by the United States Bureau of Labor Statistics. The annual adjustment must go into effect on the earliest possible date.

Under the program's income limitation, the income of an individual's family, less the first \$20,000 of the individual's earned income and other disregarded amounts to be specified in rules, cannot exceed 250% of the federal poverty guidelines.⁶ No amount that an employer of a member of the individual's family pays to obtain health insurance for one or more members of the family is to be treated as the income of the individual's family. This exclusion includes any amount of the program's premium that the employer pays.

The bill defines "family" as an applicant for or participant of the Medicaid Buy-In for Workers with Disabilities Program and the spouse and dependent children of the applicant or participant. "Family" also includes the parents of an applicant or participant who is under age 18.

Premium requirements

(R.C. 5111.704)

An individual whose family's income exceeds 150% of the federal poverty guidelines is required to pay an annual premium as a condition of qualifying for the Medicaid Buy-In for Workers with Disabilities Program. The amount of the premium is to be determined as follows:

⁵ The rules governing the Medicaid Buy-In for Workers with Disabilities Program are to be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

⁶ The bill defines "income" as including earned and unearned income. The Director of Job and Family Services is required to adopt rules defining "earned income" and "unearned income."

(1) Subtract an amount equal to 150% of the federal poverty guidelines, as applicable for a family size equal to the size of the individual's family, from the amount of the income of the individual's family;

(2) Subtract any amount a member of the individual's family pays, whether by payroll deduction or otherwise, for other health insurance for one or more members of the family from the difference determined under (1) above;

(3) Multiply the difference determined under (2) above by one tenth.

The bill stipulates that no amount that an employer of a member of an individual's family pays to obtain health insurance for one or more members of the individual's family, including any amount of a premium for the Medicaid Buy-In for Workers with Disabilities Program that the employer pays, is to be treated as income of the individual's family for purposes of determining whether an individual must pay a premium or the amount of a premium an individual must pay under the program.

Six-months extended eligibility

(R.C. 5111.706)

The bill permits an individual participating in the Medicaid Buy-In for Workers with Disabilities Program to continue to participate in the program for up to six months after the individual no longer has earnings from employment or no longer meets the federal definition of "employed individual with a medically improved disability" due to ceasing to be employed. The individual would have to continue to meet all of the program's other eligibility requirements to qualify for the extended six-months eligibility.

Dual eligibility for Buy-In and home or community-based services

(R.C. 5111.705 and 5111.851)

Ohio's Medicaid program includes a number of components under which home or community-based services are provided as an alternative to services provided by a hospital, nursing facility, or intermediate care facility for the mentally retarded. The components are authorized by federal waivers granted by the United States Department of Health and Human Services.

The bill stipulates that no individual is to be denied eligibility for the Medicaid Buy-In for Workers with Disabilities Program on the basis that the individual receives home or community-based services under a Medicaid waiver. The bill correspondingly stipulates that no individual is to lose eligibility for home or community-based services under a Medicaid waiver or have such services

reduced or disrupted on the basis that the individual also receives services under the Medicaid Buy-In for Workers with Disabilities Program, even if the individual's income or assets increase to an amount above the eligibility limit for the Medicaid waiver (but not above the eligibility limit for the Medicaid Buy-In for Workers with Disabilities Program). Individuals receiving services under a Medicaid waiver are exempted by the bill from paying any cost-sharing expenses otherwise applicable under the Medicaid waiver for any period during which they also participate in the Medicaid Buy-In for Workers with Disabilities Program.

Medicaid Buy-In Advisory Council

(R.C. 5111.708 and 5111.709; Section 3)

The bill creates the Medicaid Buy-In Advisory Council consisting of the following 12 members:

- The Executive Director of Assistive Technology of Ohio or the Executive Director's designee.
- The Director of the Axis Center for Public Awareness of People with Disabilities or the Director's designee.
- The Executive Director of the Cerebral Palsy Association of Ohio or the Executive Director's designee.
- The Chief Executive Officer of the Ohio Advocates for Mental Health or the Chief Executive Officer's designee.
- The State Director of the Ohio Chapter of AARP or the State Director's designee.
- The Director of the Ohio Developmental Disabilities Council or the Director's designee.
- The Executive Director of the Governor's Council on People with Disabilities or the Executive Director's designee.
- The Administrator of the Legal Rights Service or the Administrator's designee.
- The Chairperson of the Ohio Olmstead Task Force or the Chairperson's designee.
- The Executive Director of the Ohio Statewide Independent Living Council or the Executive Director's designee.

- The President of the Ohio Chapter of the National Multiple Sclerosis Society or the President's designee.
- The Executive Director of the ARC of Ohio or the Executive Director's designee.
- The Executive Director of the Commission on Minority Health or the Executive Director's designee.

Members of the Council are to serve without compensation or reimbursement, except as serving on the Council is considered part of their usual job duties. A member is to be elected by the members to serve as chairperson. A chairperson is to serve a two-year term and may be re-elected to successive terms as chairperson.

The Department of Job and Family Services is required to provide the Council with accommodations for the Council to hold its meetings. The Department must also provide the Council with other administrative assistance the Council needs to perform its duties.

The Director of Job and Family Services must call the Council to meet for the first time not later than 60 days after the bill's effective date. The Director or the Director's designee is required to meet at least quarterly with the Council to discuss the Medicaid Buy-in for Workers with Disabilities Program. The Council is permitted to provide the Director or Director's designee with suggestions for improving the program. The Director or designee must provide the Council with the following information:

- The number of individuals who participated in the program the previous calendar quarter.
- The cost of the program the previous calendar quarter.
- The amount of revenue generated the previous calendar quarter by the premiums paid under the program.
- The average amount of earned income of participants' families.
- The average amount of time participants have participated in the program.
- The types of other health insurance participants have been able to obtain.

The Director or Director's designee is also required to consult with the Council before adopting, amending, or rescinding any rules governing the program.

Report

(R.C. 5111.7010)

The bill requires that the Director of Job and Family Services issue a report on the Medicaid Buy-In for Workers with Disabilities Program not less than once each year. The report is to be submitted to the Governor, Speaker and Minority Leader of the House of Representatives, President and Minority Leader of the Senate, and chairpersons of the House and Senate committees to which the biennial operating budget bill is referred. The report is to include the same information that the bill requires the Director or Director's designee to provide the Medicaid Buy-In Advisory Council.

COMMENT

Federal law permits the establishment of a Medicaid buy-in program for workers with disability. To be eligible to participate in a buy-in program, the individual must meet all eligibility requirements for SSI and have earnings in excess of SSI earnings limitations.⁷

The bill states that, for purposes of meeting disability requirements through SSI eligibility, the individual must be considered disabled for the purpose of the SSI program and have earnings from employment. The bill does not require a person to have earnings in excess of SSI limits or meet other SSI eligibility requirements. Because this is inconsistent with federal law, this portion of the program will require a waiver from the United States Secretary of Health and Human Services.

HISTORY

ACTION	DATE
Introduced	02-20-07
Reported, S. Finance & Financial Institutions	---

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⁷ 42 U.S.C. 1396a(a)(10)(A)(ii)(XV).