

S.262

An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Medicaid for Working Persons with Disabilities \* \* \*

Sec. 1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility ~~which~~ that will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding ~~all~~ the earnings of the working individual with disabilities, ~~any~~; Social Security disability insurance benefits, ~~and~~ including Social Security retirement benefits converted automatically from Social Security Disability Insurance (SSDI), if applicable; any veteran's disability benefits; and, if the working individual with disabilities is married, all income of the spouse. Earnings of the working individual with disabilities shall be documented by

evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be \$10,000.00 for an individual and \$15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

\* \* \* Eligibility for Health Vermonters and VPharm \* \* \*

Sec. 2. 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No. 179, Sec. E.307, 2015 Acts and Resolves No. 58, Sec. E.307, 2016 Acts and Resolves No. 172, Sec. E.307.3, and 2017 Acts and Resolves No. 85, Sec. E.307, is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but not later than ~~December 31, 2018~~ the implementation of Vermont's Integrated Eligibility system.

\* \* \* Increasing Income Threshold for Dr. Dynasaur Premiums \* \* \*

Sec. 2a. 33 V.S.A. § 1901(c) is amended to read:

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds ~~185~~ 195 percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

\* \* \* Provider Taxes \* \* \*

Sec. 3. 33 V.S.A. § 1958 is amended to read:

§ 1958. APPEALS

(a) Any health care provider may submit a written request to the Department for reconsideration of the determination of the assessment within 20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the Department shall hold a hearing within ~~20~~ 90 days from the date on which the reconsideration request was received. The Department shall mail written

notice of the date, time, and place of the hearing to the health care provider at least ~~40~~ 30 days before the date of the hearing. On the basis of the evidence submitted to the Department or presented at the hearing, the Department shall reconsider and may adjust the assessment. Within 20 days ~~of~~ following the hearing, the Department shall provide notice in writing to the health care provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of 3 V.S.A. chapter 25.

\* \* \*

Sec. 4. 33 V.S.A. § 1959(a)(3) is amended to read:

(3) Ambulance agencies shall remit the assessment amount to the Department annually on or before ~~March 31, beginning with March 31, 2017~~ June 1.

\* \* \* Medicaid; Asset Verification \* \* \*

Sec. 5. 33 V.S.A. § 403 is added to read:

§ 403. AGENCIES TO FURNISH INFORMATION

(a) Any governmental official or agency in the State, when requested by the Commissioner of Vermont Health Access, shall furnish to him or her information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying

for or is receiving assistance or benefits from the Department of Vermont Health Access.

(b) The Commissioner of Taxes, when requested by the Commissioner of Vermont Health Access, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report his or her findings to the Commissioner of Vermont Health Access. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner of Vermont Health Access.

(c) On the first day of each month, the register of probate in each unit of the Superior Court shall provide to the Commissioner of Vermont Health Access a list of all estates, including testate, intestate, and small estates, opened during the previous calendar month within the jurisdiction of that Probate Division. The list shall contain the following information for each estate:

- (1) the decedent's full name;
- (2) the decedent's date of birth;
- (3) the decedent's date of death;
- (4) the last four digits of the decedent's Social Security number;
- (5) the docket number;

(6) the date on which the estate was opened; and

(7) the full name and contact information for the executor or administrator or his or her legal representative.

Sec. 6. RULEMAKING

The Vermont Supreme Court may promulgate rules under 12 V.S.A. § 1 to implement the provisions of Sec. 5 of this act.

\* \* \* Maximum Out-of-Pocket Prescription Drug Limit for Bronze Plans \* \* \*

Sec. 7. 2016 Acts and Resolves No. 165, Sec. 6(f), as amended by 2017 Acts and Resolves No. 25, Sec. 3, is further amended to read:

(f)(4) The Director of Health Care Reform in the Agency of Administration, in consultation with the Department of Vermont Health Access and the Office of Legislative Council, shall determine whether the Secretary of the U.S. Department of Health and Human Services has the authority under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (ACA), to waive annual limitations on out-of-pocket expenses or actuarial value requirements for bronze-level plans, or both. On or before October 1, 2016, the Director shall present information to the Health Reform Oversight Committee regarding the authority of the Secretary of the U.S. Department of Health and Human Services to waive out-of-pocket limits and actuarial value requirements, the estimated costs of

applying for a waiver, and alternatives to a waiver for preserving the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

~~(2) If the Director of Health Care Reform determines that the Secretary has the necessary authority, then on or before March 1, 2019, the Commissioner of Vermont Health Access, with the Director's assistance, shall apply for a waiver of the cost sharing or actuarial value limitations, or both, in order to preserve the availability of bronze level qualified health benefit plans that meet Vermont's out of pocket prescription drug limit established in 8 V.S.A. § 4089i.~~

\* \* \* Human Services Board; Fair Hearings \* \* \*

Sec. 8. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

\* \* \*

(e)(1) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency.

(2) Unless a continuance is requested or consented to by an aggrieved person, decisions and orders concerning Temporary Assistance to Needy Families (TANF) under 33 V.S.A. chapter 11, TANF-Emergency Assistance (TANF-EA) under Title IV of the Social Security Act, and medical assistance (Medicaid) under 33 V.S.A. chapter 19 shall be issued by the Board within 75 days of after the request for hearing.

(3) Notwithstanding any provision of subsection (c) or (d) or subdivision (1) of this subsection (e) to the contrary, in the case of an expedited Medicaid fair hearing, the Board shall delegate both its fact-finding and final decision-making authority to a hearing officer, and the hearing officer's written findings and order shall constitute the Board's decision and order in accordance with timelines set forth in federal law.

\* \* \*

(i) In the case of an appeal of a Medicaid covered service decision made by the Department of Vermont Health Access or any entity with which the Department of Vermont Health Access enters into an agreement to perform service authorizations that may result in an adverse benefit determination, the right to a fair hearing granted by subsection (a) of this section shall be available to an aggrieved beneficiary only after that individual has exhausted, or is deemed to have exhausted, the Department of Vermont Health Access's internal appeals process and has received a notice that the adverse benefit determination was upheld.

Sec. 8a. APPEAL OF MEDICAID COVERED SERVICE DECISIONS;

FAIR HEARING; RULEMAKING

The Department of Vermont Health Access shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing a process by which the Department shall ensure that a Medicaid beneficiary who files a request for a fair hearing with



the Human Services Board prior to exhausting the Department's internal appeals process receives appropriate assistance with filing the internal appeal and, if the internal appeal results in an adverse determination, with filing a timely request for a fair hearing with the Human Services Board if the beneficiary wishes to do so.

\* \* \* Repeal \* \* \*

Sec. 9. REPEAL

33 V.S.A. § 2010 (actual price disclosure and certification of prescription drugs) is repealed.

\* \* \* Effective Dates \* \* \*

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Secs. 4 (ambulance agency provider tax) and 5(a)–(c) (Medicaid; asset verification) shall take effect on passage and apply retroactively to January 1, 2018; and

(2) Sec. 5(d) (monthly list of new probate estates) shall take effect on October 1, 2018.