

S.262 As Passed by Senate showing markup from House Proposal of Amendment
(on House notice calendar 5/3/18)

1 * * * Medicaid for Working Persons with Disabilities * * *

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

3 § 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

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

7 (b) Workers with disabilities whose income is less than 250 percent of the federal poverty
8 level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected
9 income level for one or the Supplemental Security Income (SSI) payment level for two,
10 whichever is higher, after disregarding ~~all~~ the earnings of the working individual with
11 disabilities, ~~any~~; Social Security disability insurance benefits, ~~and~~ including Social Security
12 retirement benefits converted automatically from Social Security Disability Insurance (SSDI), if
13 applicable; any veteran's disability benefits; and, if the working individual with disabilities is
14 married, all income of the spouse. Earnings of the working individual with disabilities shall be
15 documented by evidence of Federal Insurance Contributions Act tax payments, Self-
16 Employment Contributions Act tax payments, or a written business plan approved and supported
17 by a third-party investor or funding source. The resource limit for this program shall be
18 \$10,000.00 for an individual and \$15,000.00 for a couple at the time of enrollment in the
19 program. Assets attributable to earnings made after enrollment in the program shall be
20 disregarded.

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

1
2 Sec. 2. 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No.
3 179, Sec. E.307, 2015 Acts and Resolves No. 58, Sec. E.307, 2016 Acts and Resolves No. 172,
4 Sec. E.307.3, and 2017 Acts and Resolves No. 85, Sec. E.307, is further amended to read:

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

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

12 Sec. ~~2a~~ **3**. 33 V.S.A. § 1901(c) is amended to read:

13 (c) The Secretary may charge a monthly premium, in amounts set by the General Assembly,
14 per family for pregnant women and children eligible for medical assistance under Sections
15 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose
16 family income exceeds ~~185~~ 195 percent of the federal poverty level, as permitted under section
17 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health
18 Care Resources Fund established in section 1901d of this title and shall be available to the
19 Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or
20 other cost sharing to be charged shall also be authorized and set by the General Assembly.

21 * * * Provider Taxes * * *

22 Sec. **4**. 33 V.S.A. § 1958 is amended to read:

1 § 1958. APPEALS

2 (a) Any health care provider may submit a written request to the Department for
 3 reconsideration of the determination of the assessment within 20 days of notice of the
 4 determination. The request shall be accompanied by written materials setting forth the basis for
 5 reconsideration. If requested, the Department shall hold a hearing within ~~20~~ 90 days from the
 6 date on which the reconsideration request was received. The Department shall mail written
 7 notice of the date, time, and place of the hearing to the health care provider at least ~~10~~ 30 days
 8 before the date of the hearing. On the basis of the evidence submitted to the Department or
 9 presented at the hearing, the Department shall reconsider and may adjust the assessment. Within
 10 20 days ~~of~~ following the hearing, the Department shall provide notice in writing to the health
 11 care provider of the final determination of the amount it is required to pay based on any
 12 adjustments made by it. Proceedings under this section are not subject to the requirements of 3
 13 V.S.A. chapter 25.

14 * * *

15 Sec. **5**. 33 V.S.A. § 1959(a)(3) is amended to read:

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

18 * * * Medicaid; Asset Verification * * *

19 Sec. **6**. 33 V.S.A. § 403 is added to read:

20 **§ 403. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION (NEW section)**

21 (a) As used in this section:

22 (1) “Bank” shall have the same meaning as in 8 V.S.A. § 11101.

1 (2) “Broker-dealer” shall have the same meaning as in 9 V.S.A. § 5102.

2 (3) “Credit union” shall have the same meaning as in 8 V.S.A. § 30101.

3 (4) “Financial institution” means any financial services provider, including a bank, credit
4 union, broker-dealer, investment advisor, mutual fund, or investment company.

5 (5) “Investment advisor” shall have the same meaning as in 9 V.S.A. § 5102.

6 (6) “Mutual fund” shall have the same meaning as in 8 V.S.A. § 3461.

7 (b) A financial institution, when requested by the Commissioner of Vermont Health Access,
8 shall furnish to the Commissioner or to an agent of the Department of Vermont Health Access
9 information in the possession of the financial institution with reference to any person or his or
10 her spouse who is applying for or is receiving assistance or benefits from the Department of
11 Vermont Health Access. The Department of Vermont Health Access shall issue instructions to
12 the financial institution detailing the nature of the request and the information necessary to
13 satisfy the request.

14 (c) A financial institution shall not be subject to criminal or civil liability for actions taken in
15 accordance with subsection (b) of this section.

16 **Sec. 7. ASSET VERIFICATION; NOTICE TO APPLICANTS AND BENEFICIARIES**

17 **(NEW section)**

18 (a)(1) Each application for assistance under the Medicaid Long-Term Care or Medicaid for
19 the Aged, Blind, and Disabled program shall contain a form of authorization, executed by the
20 applicant or beneficiary, granting authority for the Department of Vermont Health Access and its
21 agents to obtain financial information about the applicant’s or beneficiary’s assets from financial
22 institutions in order to verify the applicant’s or beneficiary’s eligibility for the applicable

1 program. The Department or its agent shall obtain the applicant's or beneficiary's authorization
2 prior to requesting his or her financial information from any financial institution.

3 (2) The Department of Vermont Health Access shall collaborate with the Office of the
4 Health Care Advocate to ensure that applicants to and beneficiaries of the Medicaid Long-Term
5 Care and Medicaid for the Aged, Blind, and Disabled programs receive notice written in plain
6 and accessible language explaining the Department's electronic asset verification system.

7 (b) In the event that the financial information of an applicant's or beneficiary's spouse is
8 required in order to determine the applicant's or beneficiary's eligibility for the Medicaid Long-
9 Term Care or Medicaid for the Aged, Blind, and Disabled program, the Department of Vermont
10 Health Access shall provide written notice regarding the asset verification process to the spouse
11 and shall obtain the spouse's written authorization for the Department and its agents to obtain his
12 or her financial information from financial institutions prior to requesting the spouse's financial
13 information from any financial institution. The Department may determine an applicant or
14 beneficiary to be ineligible for Medicaid if the applicant's or beneficiary's spouse refuses to
15 provide, or revokes, his or her consent.

16 Sec. **8.** 33 V.S.A. § 404 is added to read:

17 § 40**34**. AGENCIES TO FURNISH INFORMATION

18 (a) Any governmental official or agency in the State, when requested by the **Commissioner**
19 **Department** of Vermont Health Access, shall furnish to ~~him or her~~ **the Department**
20 information in the official's or agency's possession with reference to aid given or money paid or
21 to be paid to any person or person's spouse who is applying for or is receiving assistance or
22 benefits from the Department of Vermont Health Access.

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

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

13 **(1) the decedent's full name;**

14 **(2) the decedent's date of birth;**

15 **(3) the decedent's date of death;**

16 **(4) the last four digits of the decedent's Social Security number;**

17 **(4) the docket number;**

18 **(5) the date on which the estate was opened; and**

19 **(6) the full name and contact information for the executor or administrator or his or her**
20 **legal representative.**

21 **Sec. 9. RULEMAKING**

1 requirements for bronze-level plans, or both. On or before October 1, 2016, the Director shall
2 present information to the Health Reform Oversight Committee regarding the authority of the
3 Secretary of the U.S. Department of Health and Human Services to waive out-of-pocket limits
4 and actuarial value requirements, the estimated costs of applying for a waiver, and alternatives to
5 a waiver for preserving the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

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

11 **Sec. 12. 33 V.S.A. § 1814 is added to read: (NEW section)**

12 § 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION

13 DRUGS IN BRONZE PLANS

14 (a)(1) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green
15 Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit
16 established in 8 V.S.A. § 4089i for one or more bronze-level plans.

17 (2) The Department of Vermont Health Access shall certify at least two standard bronze-
18 level plans that include the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i,
19 as long as the plans comply with federal requirements. Notwithstanding any provision of
20 8 V.S.A. § 4089i to the contrary, the Department may certify one or more bronze-level qualified
21 health benefit plans with modifications to the out-of-pocket prescription drug limit established in
22 8 V.S.A. § 4089i.

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

8 Sec. **8a 14**. APPEAL OF MEDICAID COVERED SERVICE DECISIONS;

9 FAIR HEARING; RULEMAKING

10 The Department of Vermont Health Access shall adopt rules pursuant to 3 V.S.A. chapter 25
 11 establishing a process by which the Department shall ensure that a Medicaid beneficiary who
 12 files a request for a fair hearing with the Human Services Board prior to exhausting the
 13 Department's internal appeals process receives **appropriate assistance with filing the**
 14 **consideration by the Department as though the beneficiary had properly filed an** internal
 15 appeal and, if the internal appeal results in an adverse determination, **that the Department shall**
 16 **provide to the beneficiary appropriate assistance** with filing a timely request for a fair hearing
 17 with the Human Services Board if the beneficiary wishes to do so.

18 * * * Repeal * * *

19 Sec. **9 15**. REPEAL

20 33 V.S.A. § 2010 (actual price disclosure and certification of prescription drugs) is repealed.

21 * * * Effective Dates * * *

22 Sec. **10 16**. EFFECTIVE DATES

1 This act shall take effect on passage, except:

2 (1) Notwithstanding 1 V.S.A. § 214, Secs. ~~45~~ (ambulance agency provider tax) ~~and 5(a)-~~
3 ~~(c) (Medicaid; asset verification)~~ shall take effect on passage and apply retroactively to January
4 1, 2018; and

5 (2) Sec. ~~5(d) 8, 33~~ V.S.A. § ~~404(c)~~ (monthly list of new probate estates) shall take effect
6 on October 1, 2018.