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H.721

An act relating to expanding access to Medicaid and Dr. Dynasaur

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

Sec. 1. SHORT TITLE

This act shall be known and may be cited as the “Medicaid Expansion Act of 2024.”

Sec. 2. FINDINGS

The General Assembly finds that:

(1) Medicaid is a comprehensive public health insurance program, funded jointly by state and federal governments. Vermont’s Medicaid program currently covers adults with incomes up to 133 percent of the federal poverty level (FPL), children up to 19 years of age from families with incomes up to 312 percent FPL, and pregnant individuals with incomes up to 208 percent FPL.

(2) States may customize their Medicaid programs with permission from the federal government through waivers and demonstrations. Vermont is the only state in the nation that operates its entire Medicaid program under a comprehensive statewide demonstration, called the Global Commitment to Health, that offers the same services to residents in all regions of the State.

(3) Vermont’s unique Medicaid program provides comprehensive coverage for a full array of health care services, including primary and

1 specialty care; reproductive and gender-affirming care; hospital and surgical
2 care; prescription drugs; long-term care; mental health, dental, and vision care;
3 disability services; substance use disorder treatment; and some social services
4 and supportive housing services.

5 (4) There are no monthly premiums for most individuals covered under
6 Vermont's Medicaid program, and co-payments are minimal or nonexistent for
7 most Medicaid coverage. For example, the highest co-payment for
8 prescription drugs for a Medicaid beneficiary is just \$3.00.

9 (5) Close to one-third of all Vermonters, including a majority of all
10 children in the State, have coverage provided through Vermont Medicaid,
11 making it the largest health insurance program in Vermont.

12 (6) In 2021, the six percent uninsured rate for Vermonters who had an
13 annual income between 251 and 350 percent FPL was double the three percent
14 overall uninsured rate. And for those 45 to 64 years of age, the estimated
15 number of uninsured Vermonters increased more than 50 percent over the
16 previous three years, from 4,900 uninsured in 2018 to 7,400 in 2021.

17 (7) Cost is the primary barrier to health insurance coverage for
18 uninsured Vermonters. More than half (51 percent) of uninsured individuals
19 identify cost as the only reason they do not have insurance.

20 (8) During the COVID-19 public health emergency, the uninsured rate
21 for Vermonters with incomes just above Medicaid levels (between 139 and

1 200 percent FPL) fell from six percent in 2018 to two percent in 2021. This
2 drop was due in large part to the federal Medicaid continuous coverage
3 requirement, which allowed individuals to remain on Medicaid throughout the
4 pandemic even if their incomes rose above the Medicaid eligibility threshold.
5 A majority of Vermonters (56 percent) with incomes between 139 and
6 200 percent FPL were on Medicaid in 2021.

7 (9) The end of the public health emergency and the beginning of the
8 federally required Medicaid “unwinding” means that many of these
9 Vermonters are losing their comprehensive, low- or no-cost Medicaid health
10 coverage.

11 (10) Almost nine in 10 (88 percent) insured Vermonters visited a doctor
12 in 2021, compared with just 48 percent of uninsured Vermonters. Insured
13 Vermonters are also significantly more likely to seek mental health care than
14 uninsured Vermonters (34 percent vs. 21 percent).

15 (11) Marginalized populations are more likely than others to forgo
16 health care due to cost. Vermonters who are members of gender identity
17 minority groups are the most likely not to receive care from a doctor because
18 they cannot afford to (12 percent). In addition, eight percent of each of the
19 following populations also indicated that they are unlikely to receive care
20 because of the cost: Vermonters under 65 years of age who have a disability,

1 Vermonters who are Black or African American, and Vermonters who are
2 LGBTQ.

3 (12) Many Vermonters under 65 years of age who have insurance are
4 considered “underinsured,” which means that their current or potential future
5 medical expenses are more than what their incomes can bear. The percentage
6 of underinsured Vermonters is increasing, from 30 percent in 2014 to
7 37 percent in 2018 and to 40 percent in 2021.

8 (13) Vermonters 18 to 24 years of age are the most likely to be
9 underinsured among those under 65 years of age, with 37 percent or
10 38,700 young adults falling into this category.

11 (14) The highest rates of underinsurance are among individuals with the
12 lowest incomes, who are just over the eligibility threshold for Medicaid.
13 Among Vermonters under 65 years of age, 43 percent of those earning 139–
14 150 percent FPL and 49 percent of those earning 151–200 percent FPL are
15 underinsured.

16 (15) Underinsured Vermonters 18 to 64 years of age spend on average
17 approximately 2.5 times more on out-of-pocket costs than fully insured
18 individuals, with an average of \$4,655.00 for underinsured adults compared
19 with less than \$1,900.00 for fully insured individuals.

20 (16) Individuals with lower incomes or with a disability who turn
21 65 years of age and must transition from Medicaid to Medicare often face what

1 is known as the “Medicare cliff” or the “senior and disabled penalty” when
2 suddenly faced with paying high Medicare costs. Individuals with incomes
3 between \$14,580.00 and \$21,876.00 per year, and couples with incomes
4 between \$19,728.00 and \$29,580.00 per year, can go from paying no monthly
5 premiums for Medicaid or a Vermont Health Connect plan to owing hundreds
6 of dollars per month in Medicare premiums, deductibles, and cost-sharing
7 requirements.

8 (17) The Patient Protection and Affordable Care Act, Pub. L. No. 111-
9 148, allows young adults to remain on their parents’ private health insurance
10 plans until they reach 26 years of age. The same option does not exist under
11 Dr. Dynasaur, Vermont’s public children’s health insurance program
12 established in accordance with Title XIX (Medicaid) and Title XXI (SCHIP) of
13 the Social Security Act, however, so young adults who come from families
14 without private health insurance are often uninsured or underinsured.

15 (18) In order to promote the health of young adults and to increase
16 access to health care services, the American Academy of Pediatrics
17 recommends that coverage under Medicaid and SCHIP, which in Vermont
18 means Dr. Dynasaur, be made available to all individuals from 0 to 26 years of
19 age.

1 Sec. 3. 33 V.S.A. § 1901 is amended to read:

2 § 1901. ADMINISTRATION OF PROGRAM

3 * * *

4 (b) The Secretary shall make coverage under the Dr. Dynasaur program
5 established in accordance with Title XIX (Medicaid) and Title XXI (SCHIP) of
6 the Social Security Act available to the following individuals whose modified
7 adjusted gross income is at or below 312 percent of the federal poverty level
8 for the applicable family size:

9 (1) all Vermont residents up to 21 years of age; and

10 (2) pregnant individuals of any age.

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

1 * * *

2 Sec. 4. AGENCY OF HUMAN SERVICES; TECHNICAL ANALYSIS;
3 REPORTS

4 (a) The Agency of Human Services, in collaboration with interested
5 stakeholders, shall undertake a technical analysis relating to expanding access
6 to Medicaid and Dr. Dynasaur, to rates paid to health care providers for
7 delivering services to individuals on Medicaid and Dr. Dynasaur, and to the
8 structure of Vermont's health insurance markets.

9 (b) The technical analysis relating to expanding access to Medicaid and Dr.
10 Dynasaur shall examine the feasibility of; consider the need for one or more
11 federal waivers or one or more amendments to Vermont's Global Commitment
12 to Health Section 1115 demonstration, or both, for; develop a proposed
13 implementation timeline and estimated costs of implementation for; and
14 estimate the programmatic costs of, each of the following:

15 (1) expanding eligibility for Medicaid for adults who are 26 years of age
16 or older but under 65 years of age and not pregnant to individuals with
17 incomes at or below 312 percent of the federal poverty level (FPL) by 2030;

18 (2) expanding eligibility for Dr. Dynasaur to all Vermont residents up to
19 26 years of age with incomes at or below 312 percent FPL by 2030;

20 (3) expanding eligibility for the Immigrant Health Insurance Plan
21 established pursuant to 33 V.S.A. chapter 19, subchapter 9 to all individuals up

1 to 65 years of age with incomes up to 312 percent FPL who have an
2 immigration status for which Medicaid or Dr. Dynasaur is not available by
3 2030; and

4 (4) implementing a proposed schedule of sliding-scale cost-sharing
5 requirements for beneficiaries of the expanded Medicaid, Dr. Dynasaur, and
6 Immigrant Health Insurance Plan programs.

7 (c)(1) The technical analysis relating to Medicaid provider reimbursement
8 rates shall include:

9 (A) an analysis of the expected enrollment by proposed expansion
10 population for each of the programs described in subsection (b) of this section;

11 (B) an examination of the insurance coverage individuals in each
12 proposed expansion population currently has, if any, and the average
13 reimbursement rates under that coverage by provider type as a percentage of
14 the Medicare rates for the same services;

15 (C) an analysis of how current Vermont Medicaid rates compare to
16 rates paid to Vermont providers, by provider type, under Medicare;

17 (D) an assessment of how other states' public option and Medicaid
18 buy-in programs set provider rates, which providers are included, the basis for
19 those rates by provider type, and any available data regarding the impacts of
20 those rates on provider participation and patient access to care;

1 (E) an estimate of the costs to the State, by provider type, if providers
2 were reimbursed at 125 percent, 145 percent, 160 percent, and 200 percent of
3 Medicare rates;

4 (F) if a fee schedule is benchmarked to Medicare rates, how best to
5 structure a methodology that avoids federal Medicare rate cuts while ensuring
6 appropriate inflationary indexing;

7 (G) if rate differentials will continue between primary care and
8 specialty care services under the RBRVS fee schedule, an estimate of the costs
9 of including comprehensive prenatal, labor and delivery, postpartum, other
10 reproductive health care services, and psychiatric services under the primary
11 care rate; and

12 (H) a proposed methodology for comparing Medicaid home health
13 and pediatric palliative care rates against Medicare home health prospective
14 payment system or Medicare hospice rates.

15 (2) As used in this section, “provider type” means the designated and
16 specialized service agencies and each category of health care provider that
17 provides services for which the Department of Vermont Health Access
18 maintains a reimbursement methodology, including hospital inpatient services;
19 hospital outpatient services; professional services reimbursed based on the
20 RBRVS fee schedule for both primary care and specialty care services;
21 services provided by federally qualified health centers and rural health centers;

1 suppliers of durable medical equipment, prosthetics, orthotics, and supplies;
2 clinical laboratory services; home health services; hospice services; pediatric
3 palliative care services; ambulance services; anesthesia services; dental
4 services; assistive community care services; and applied behavior analysis
5 services.

6 (d) The technical analysis relating to Vermont's health insurance markets
7 shall include:

8 (1) determining the potential advantages and disadvantages to
9 individuals, small businesses, and large businesses of modifying Vermont's
10 current health insurance market structure, including the impacts on health
11 insurance premiums and on Vermonters' access to health care services;

12 (2) exploring other affordability mechanisms to address the 2026
13 expiration of federal enhanced premium tax credits for plans issued through the
14 Vermont Health Benefit Exchange; and

15 (3) examining the feasibility of creating a public option or other
16 mechanism through which otherwise ineligible individuals or employees of
17 small businesses, or both, could buy into Vermont Medicaid coverage.

18 (e)(1) On or before January 15, 2025, the Agency of Human Services shall
19 submit the technical analysis required by this section to the House Committees
20 on Health Care and on Appropriations and to the Senate Committees on Health
21 and Welfare, on Finance, and on Appropriations. The analysis shall include

1 the feasibility of each item described in subsections (b)–(d) of this section; the
2 federal strategy for achieving each item, including identification of any
3 necessary federal waivers, the process for obtaining such waivers, and the
4 likelihood of approval for each such waiver; the costs, both programmatic
5 costs and technological and operational costs; a timeline for implementation of
6 each recommended action; and a description of any legislative needs.

7 (2) On or before January 15, 2026, the Agency of Human Services shall
8 provide the following to the House Committees on Health Care and on
9 Appropriations and to the Senate Committees on Health and Welfare, on
10 Finance, and on Appropriations:

11 (A) an analysis of how current Vermont Medicaid rates compare to
12 rates paid to Vermont providers, by provider type, under average commercial
13 health insurance fee schedules; and

14 (B) an estimate of the costs to the State and an analysis of the
15 advantages and disadvantages of benchmarking rates for RBRVS-equivalent
16 professional services based on the average commercial health insurance rates
17 paid to Vermont providers rather than the Medicare fee-for-service physician
18 fee schedule.

19 Sec. 5. 33 V.S.A. § 1901e is amended to read:

20 § 1901e. GLOBAL COMMITMENT FUND

21 * * *

1 (c)(1) Annually, on or before October 1, the Agency shall provide a
2 detailed report to the Joint Fiscal Committee that describes the managed care
3 organization's investments under the terms and conditions of the Global
4 Commitment to Health Medicaid Section 1115 waiver, including the amount of
5 the investment and the agency or departments authorized to make the
6 investment.

7 (2) In addition to the annual report required by subdivision (1) of this
8 subsection, the Agency shall provide the information set forth in subdivisions
9 (A)–(E) of this subdivision annually as part of its budget presentation. The
10 Agency may choose to provide the required information for the subset of the
11 Global Commitment investments being independently evaluated in any one
12 year. The information to be provided shall include:

13 (A) a detailed description of the investment;

14 (B) which Vermonters are served by the investment;

15 (C) the cost of the investment;

16 (D) the efficacy of the investment; and

17 (E) where in State government the investment is managed, including

18 the division or office responsible for the management.

1 Sec. 6. 33 V.S.A. §1901c is added to read:

2 § 1901c. MEDICAID COVERED SERVICE CONSIDERATIONS; REPORT

3 Annually on or before January 15, the Commissioner of Vermont Health
4 Access shall report to the House Committee on Health Care and the Senate
5 Committee on Health and Welfare regarding each service that the Department
6 of Vermont Health Access considered for new, modified, expanded, or reduced
7 coverage under the Vermont Medicaid program during the preceding fiscal
8 year, including the reason for considering the service, the factors considered,
9 the stakeholders consulted, the coverage decision made, and the rationale for
10 the decision.

11 Sec. 7. MEDICARE SAVINGS PROGRAMS; INCOME ELIGIBILITY

12 The Agency of Human Services shall make the following changes to the
13 Medicare Savings Programs:

14 (1) increase the Qualified Medicare Beneficiary (QMB) Program
15 income threshold to 190 percent of the federal poverty level (FPL);

16 (2) increase the Specified Low-Income Medicare Beneficiary (SLMB)
17 Program income threshold to 210 percent FPL; and

18 (3) increase the Qualifying Individual (QI) Program income threshold to
19 225 percent FPL.

1 Sec. 8. MEDICAID STATE PLAN AMENDMENTS

2 (a) The Agency of Human Services shall request approval from the Centers
3 for Medicare and Medicaid Services to amend Vermont's Medicaid state plan
4 to expand eligibility for the Medicare Savings Programs as set forth in Sec. 7
5 of this act.

6 (b) If amendments to Vermont's Medicaid state plan or to Vermont's
7 Global Commitment to Health Section 1115 demonstration, or both, are
8 necessary to implement any of the other provision of this act, the Agency of
9 Human Services shall seek approval from the Centers for Medicare and
10 Medicaid Services as expeditiously as possible.

11 Sec. 9. REPEAL OF VPHARM PROGRAM

12 33 V.S.A. § 2073 (VPharm assistance program) is repealed on the later of
13 January 1, 2027 or 12 months following approval by the Centers for Medicare
14 and Medicaid Services of the amendment to Vermont's Medicaid state plan to
15 expand eligibility for the Medicare Savings Programs as set forth in Secs. 7
16 and 8(a) of this act.

17 Sec. 10. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017
18 Acts and Resolves No. 73, Sec. 14, 2018 Acts and Resolves No. 187, Sec. 5,
19 2019 Acts and Resolves No. 71, Sec. 21, 2021 Acts and Resolves No. 73,
20 Sec. 14, and 2023 Acts and Resolves No. 78, Sec. E.306.1, is further amended
21 to read:

1 appropriation for implementation of the Dr. Dynasaur eligibility expansion set
2 forth in Sec. 3 of this act.

3 (b) In fiscal year 2025, the sum of \$450,000.00 in Global Commitment
4 funds is appropriated to the Agency of Human Services for the technical
5 analysis required by Sec. 4 of this act.

6 (1) In fiscal year 2025, the sum of \$250,000.00 is appropriated from the
7 General Fund to the Agency of Human Services, Global Commitment
8 appropriation for the State match for the technical analysis required by Sec. 4
9 of this act.

10 (2) In fiscal year 2025, the sum of \$200,000.00 in federal funds is
11 appropriated to the Agency of Human Services, Global Commitment
12 appropriation for the technical analysis required by Sec. 4 of this act.

13 (c) The sum of \$200,000.00 is appropriated to the Department of Vermont
14 Health Access in fiscal year 2025, of which \$100,000.00 is from the General
15 Fund and \$100,000.00 is in federal funds, to implement the Medicare Savings
16 Programs eligibility expansion as set forth in Sec. 7 of this act.

17 (d) It is the intent of the General Assembly to use a portion of the revenues
18 generated through the amended taxes and fees in Secs. 13–15 of this act to
19 fund the appropriations set forth in this section.

1 Sec. 13. 32 V.S.A. § 5811(18) is amended to read:

2 (18) “Vermont net income” means, for any taxable year and for any
3 corporate taxpayer:

4 (A) the taxable income of the taxpayer for that taxable year under the
5 laws of the United States, without regard to 26 U.S.C. § 168(k), and excluding
6 income that under the laws of the United States is exempt from taxation by the
7 states:

8 (i) increased by:

9 (I) the amount of any deduction for State and local taxes on or
10 measured by income, franchise taxes measured by net income, franchise taxes
11 for the privilege of doing business and capital stock taxes; ~~and~~

12 (II) to the extent such income is exempted from taxation under
13 the laws of the United States ~~by~~, the amount received by the taxpayer on and
14 after January 1, 1986 as interest income from state and local obligations, other
15 than obligations of Vermont and its political subdivisions, and any dividends
16 or other distributions from any fund to the extent such dividend or distribution
17 is attributable to such Vermont State or local obligations;

18 (III) the amount of any deduction for a federal net operating
19 loss; and

20 (IV) the amount of any deduction allowed under 26 U.S.C.
21 § 250(a); and

1 (ii) decreased by:

2 * * *

3 Sec. 14. 32 V.S.A. § 5832 is amended to read:

4 § 5832. TAX ON INCOME OF CORPORATIONS

5 A tax is imposed for each calendar year, or fiscal year ending during that
6 calendar year, upon the income earned or received in that taxable year by every
7 taxable corporation, reduced by any Vermont net operating loss allowed under
8 section 5888 of this title, such tax being the greater of:

9 (1) an amount determined in accordance with the following schedule:

Vermont net income of the corporation for the taxable year allocated or apportioned to Vermont under section 5833 of this title	Tax
\$0-10,000.00	6.00%
10,001.00-25,000.00	\$600.00 plus 7.0% of the excess over \$10,000.00
25,001.00 and over	\$1,650.00 plus 8.5% <u>10%</u> of the excess over 25,000.00

18 or

19 (2)(A) \$75.00 for small farm corporations. “Small farm corporation”
20 means any corporation organized for the purpose of farming, which during the
21 taxable year is owned solely by active participants in that farm business and

1 receives less than \$100,000.00 Vermont gross receipts from that farm
2 operation, exclusive of any income from forest crops; or

3 (B) An amount determined in accordance with section 5832a of this
4 title for a corporation that qualifies as and has elected to be taxed as a digital
5 business entity for the taxable year; or

6 (C) For C corporations with Vermont gross receipts from \$0.00–
7 \$500,000.00, the greater of the amount determined under subdivision (1) of
8 this section or \$100.00; or

9 (D) For C corporations with Vermont gross receipts from
10 \$500,001.00–\$1,000,000.00, the greater of the amount determined under
11 subdivision (1) of this section or \$500.00; or

12 (E) For C corporations with Vermont gross receipts from
13 \$1,000,001.00–\$5,000,000.00, the greater of the amount determined under
14 subdivision (1) of this section or \$2,000.00; or

15 (F) For C corporations with Vermont gross receipts from
16 \$5,000,001.00–\$300,000,000.00, the greater of the amount determined under
17 subdivision (1) of this section or \$6,000.00; or

18 (G) For C corporations with Vermont gross receipts greater than
19 \$300,000,000.00, the greater of the amount determined under subdivision (1)
20 of this section or \$100,000.00.

1 Sec. 15. 9 V.S.A. § 5302 is amended to read:

2 § 5302. NOTICE FILING

3 * * *

4 (e) At the time of the filing of the information prescribed in subsection (a),
5 (b), (c), or (d) of this section, except investment companies subject to 15
6 U.S.C. § 80a-1 et seq., the issuer shall pay to the Commissioner a fee of
7 ~~\$600.00~~ \$740.00. The fee is nonrefundable.

8 (f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to
9 the Commissioner an initial notice filing fee of ~~\$2,000.00~~ \$2,250.00 and an
10 annual renewal fee of ~~\$1,650.00~~ \$1,900.00 for each portfolio or class of
11 investment company securities for which a notice filing is submitted.

12 * * *

13 Sec. 16. EFFECTIVE DATES

14 (a) This section and Secs. 1 (short title), 2 (findings), 4 (technical analysis
15 and reports), 5 (Global Commitment investments), 6 (Medicaid covered
16 service considerations), 8 (Medicaid state plan amendments), 9 (repeal of
17 VPharm program), and 10 and 11 (extension of Health IT-Fund) shall take
18 effect on passage.

19 (b) Sec. 3 (33 V.S.A. § 1901; Dr. Dynasaur eligibility expansion) shall take
20 effect on January 1, 2026.

1 (c) Sec. 7 (Medicare Savings Programs; income eligibility) shall take effect
2 upon the later of January 1, 2026 or approval by the Centers for Medicare and
3 Medicaid Services of the amendment to Vermont's Medicaid state plan as
4 directed in Sec. 8(a).

5 (d) Secs. 12 (appropriations) and 15 (securities registration fee) shall take
6 effect on July 1, 2024.

7 (e) Secs. 13 (add-back of corporate income tax deductions) and 14
8 (corporate income tax brackets) shall take effect on January 1, 2025 and apply
9 to taxable years beginning on and after January 1, 2025.