

1 S.262

2 Introduced by Senator Ayer

3 Referred to Committee on Health and Welfare

4 Date: January 3, 2018

5 Subject: Health; Medicaid; Healthy Vermonters; VPharm; provider tax;
6 prescription drugs; Human Services Board

7 Statement of purpose of bill as introduced: This bill proposes to make several
8 changes affecting administration of the Medicaid program and the Department
9 of Vermont Health Access.

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

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

13 * * * Medicaid for Working Persons with Disabilities * * *

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

15 § 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

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

20 (b) Workers with disabilities whose income is less than 250 percent of the

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

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

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

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

8 * * * Provider Taxes * * *

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

10 § 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 ~~10~~ 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.

1 * * *

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

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

6 * * * Medicaid; Asset Verification * * *

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

8 § 403. ~~BANKS AND~~ AGENCIES TO FURNISH INFORMATION

9 ~~(a) An officer of a financial institution, as described in 8 V.S.A.~~

10 ~~§ 11101(32); a credit union; or an independent trust company in this State,~~

11 ~~when requested by the Commissioner of Vermont Health Access, shall furnish~~

12 ~~to the Commissioner information in the possession of the bank or company~~

1 ~~with reference to any person or his or her spouse who is applying for or is~~
2 ~~receiving assistance or benefits from the Department of Vermont Health~~
3 ~~Access.~~

4 ~~(b)~~ (a) Any governmental official or agency in the State, when requested
5 by the Commissioner of Vermont Health Access, shall furnish to him or her
6 information in the official's or agency's possession with reference to aid given
7 or money paid or to be paid to any person or person's spouse who is applying
8 for or is receiving assistance or benefits from the Department of Vermont
9 Health Access.

10 ~~(e)~~ (b) The Commissioner of Taxes, when requested by the Commissioner
11 of Vermont Health Access, and unless otherwise prohibited by federal law,
12 shall compare the information furnished by an applicant or recipient of
13 assistance with the State income tax returns filed by such person and shall
14 report his or her findings to the Commissioner of Vermont Health Access.

15 Each application for assistance shall contain a form of consent, executed by
16 the applicant, granting permission to the Commissioner of Taxes to disclose
17 such information to the Commissioner of Vermont Health Access.

18 ~~(d)~~ (c) On the first day of each month, the register of probate in each unit of
19 the Superior Court shall provide to the Commissioner of Vermont Health
20 Access a list of all estates, including testate, intestate, and small estates,
21 opened during the previous calendar month within the jurisdiction of that

1 Probate Division. The list shall contain the following information for each
2 estate:

3 (1) the decedent's full name;

4 (2) the decedent's date of birth;

5 (3) the decedent's date of death;

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

7 (5) the docket number;

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

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

11 Sec. 6. RULEMAKING

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

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

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

17 (f)(4) The Director of Health Care Reform in the Agency of
18 Administration, in consultation with the Department of Vermont Health Access
19 and the Office of Legislative Council, shall determine whether the Secretary of
20 the U.S. Department of Health and Human Services has the authority under the
21 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended

1 by the federal Health Care and Education Reconciliation Act of 2010, Pub. L.
2 No. 111-152 (ACA), to waive annual limitations on out-of-pocket expenses or
3 actuarial value requirements for bronze-level plans, or both. On or before
4 October 1, 2016, the Director shall present information to the Health Reform
5 Oversight Committee regarding the authority of the Secretary of the U.S.
6 Department of Health and Human Services to waive out-of-pocket limits and
7 actuarial value requirements, the estimated costs of applying for a waiver, and
8 alternatives to a waiver for preserving the out-of-pocket prescription drug limit
9 established in 8 V.S.A. § 4089i.

10 ~~(2) If the Director of Health Care Reform determines that the Secretary~~
11 ~~has the necessary authority, then on or before March 1, 2019, the~~
12 ~~Commissioner of Vermont Health Access, with the Director's assistance, shall~~
13 ~~apply for a waiver of the cost-sharing or actuarial value limitations, or both, in~~
14 ~~order to preserve the availability of bronze-level qualified health benefit plans~~
15 ~~that meet Vermont's out-of-pocket prescription drug limit established in~~
16 ~~8 V.S.A. § 4089i.~~

17 ~~*** Fair Hearing Exhaustion Requirement ***~~

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

19 § 3091. HEARINGS

20 * *

21 (i) In the case of an appeal of a Medicaid covered service decision made by
22 the Department of Vermont Health Access or any entity with which the

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

** * * 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,

