

ASSEMBLY, No. 836

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 15 (Hunterdon and Mercer)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

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SYNOPSIS

Amends law to extend length of postpartum coverage for Medicaid services for eligible pregnant women to 180-day period.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning Medicaid coverage for pregnant women and
2 amending P.L.1968, c.413.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read
8 as follows:

9 3. Definitions. As used in P.L.1968, c.413 (C.30:4D-1 et seq.),
10 and unless the context otherwise requires:

11 a. "Applicant" means any person who has made application for
12 purposes of becoming a "qualified applicant."

13 b. "Commissioner" means the Commissioner of Human
14 Services.

15 c. "Department" means the Department of Human Services,
16 which is herein designated as the single State agency to administer
17 the provisions of this act.

18 d. "Director" means the Director of the Division of Medical
19 Assistance and Health Services.

20 e. "Division" means the Division of Medical Assistance and
21 Health Services.

22 f. "Medicaid" means the New Jersey Medical Assistance and
23 Health Services Program.

24 g. "Medical assistance" means payments on behalf of recipients
25 to providers for medical care and services authorized under
26 P.L.1968, c.413.

27 h. "Provider" means any person, public or private institution,
28 agency, or business concern approved by the division lawfully
29 providing medical care, services, goods, and supplies authorized
30 under P.L.1968, c.413, holding, where applicable, a current valid
31 license to provide such services or to dispense such goods or
32 supplies.

33 i. "Qualified applicant" means a person who is a resident of
34 this State, and either a citizen of the United States or an eligible
35 alien, and is determined to need medical care and services as
36 provided under P.L.1968, c.413, with respect to whom the period
37 for which eligibility to be a recipient is determined shall be the
38 maximum period permitted under federal law, and who:

39 (1) Is a dependent child or parent or caretaker relative of a
40 dependent child who would be, except for resources, eligible for the
41 aid to families with dependent children program under the State
42 Plan for Title IV-A of the federal Social Security Act as of July 16,
43 1996;

44 (2) Is a recipient of Supplemental Security Income for the Aged,
45 Blind and Disabled under Title XVI of the Social Security Act;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) Is an "ineligible spouse" of a recipient of Supplemental
2 Security Income for the Aged, Blind and Disabled under Title XVI
3 of the Social Security Act, as defined by the federal Social Security
4 Administration;

5 (4) Would be eligible to receive Supplemental Security Income
6 under Title XVI of the federal Social Security Act or, without
7 regard to resources, would be eligible for the aid to families with
8 dependent children program under the State Plan for Title IV-A of
9 the federal Social Security Act as of July 16, 1996, except for
10 failure to meet an eligibility condition or requirement imposed
11 under such State program which is prohibited under Title XIX of
12 the federal Social Security Act such as a durational residency
13 requirement, relative responsibility, consent to imposition of a lien;

14 (5) (Deleted by amendment, P.L.2000, c.71).

15 (6) Is an individual under 21 years of age who, without regard to
16 resources, would be, except for dependent child requirements,
17 eligible for the aid to families with dependent children program
18 under the State Plan for Title IV-A of the federal Social Security
19 Act as of July 16, 1996, or groups of such individuals, including but
20 not limited to, children in resource family placement under
21 supervision of the Division of Child Protection and Permanency in
22 the Department of Children and Families whose maintenance is
23 being paid in whole or in part from public funds, children placed in
24 a resource family home or institution by a private adoption agency
25 in New Jersey or children in intermediate care facilities, including
26 developmental centers for the developmentally disabled, or in
27 psychiatric hospitals;

28 (7) Would be eligible for the Supplemental Security Income
29 program, but is not receiving such assistance and applies for
30 medical assistance only;

31 (8) Is determined to be medically needy and meets all the
32 eligibility requirements described below:

33 (a) The following individuals are eligible for services, if they
34 are determined to be medically needy:

35 (i) Pregnant women;

36 (ii) Dependent children under the age of 21;

37 (iii) Individuals who are 65 years of age and older; and

38 (iv) Individuals who are blind or disabled pursuant to either 42
39 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

40 (b) The following income standard shall be used to determine
41 medically needy eligibility:

42 (i) For one person and two person households, the income
43 standard shall be the maximum allowable under federal law, but
44 shall not exceed 133 1/3【%】 percent of the State's payment level to
45 two person households under the aid to families with dependent
46 children program under the State Plan for Title IV-A of the federal
47 Social Security Act in effect as of July 16, 1996; and

- 1 (ii) For households of three or more persons, the income
2 standard shall be set at 133 1/3【%】 percent of the State's payment
3 level to similar size households under the aid to families with
4 dependent children program under the State Plan for Title IV-A of
5 the federal Social Security Act in effect as of July 16, 1996.
- 6 (c) The following resource standard shall be used to determine
7 medically needy eligibility:
- 8 (i) For one person households, the resource standard shall be
9 200【%】 percent of the resource standard for recipients of
10 Supplemental Security Income pursuant to 42 U.S.C. s.1382(1)(B);
- 11 (ii) For two person households, the resource standard shall be
12 200【%】 percent of the resource standard for recipients of
13 Supplemental Security Income pursuant to 42 U.S.C. s.1382(2)(B);
- 14 (iii) For households of three or more persons, the resource
15 standard in subparagraph (c)(ii) above shall be increased by
16 \$100.00 for each additional person; and
- 17 (iv) The resource standards established in (i), (ii), and (iii) are
18 subject to federal approval and the resource standard may be lower
19 if required by the federal Department of Health and Human
20 Services.
- 21 (d) Individuals whose income exceeds those established in
22 subparagraph (b) of paragraph (8) of this subsection may become
23 medically needy by incurring medical expenses as defined in
24 42 C.F.R.435.831(c) which will reduce their income to the
25 applicable medically needy income established in subparagraph (b)
26 of paragraph (8) of this subsection.
- 27 (e) A six-month period shall be used to determine whether an
28 individual is medically needy.
- 29 (f) Eligibility determinations for the medically needy program
30 shall be administered as follows:
- 31 (i) County welfare agencies and other entities designated by the
32 commissioner are responsible for determining and certifying the
33 eligibility of pregnant women and dependent children. The division
34 shall reimburse county welfare agencies for 100【%】 percent of the
35 reasonable costs of administration which are not reimbursed by the
36 federal government for the first 12 months of this program's
37 operation. Thereafter, 75【%】 percent of the administrative costs
38 incurred by county welfare agencies which are not reimbursed by
39 the federal government shall be reimbursed by the division;
- 40 (ii) The division is responsible for certifying the eligibility of
41 individuals who are 65 years of age and older and individuals who
42 are blind or disabled. The division may enter into contracts with
43 county welfare agencies to determine certain aspects of eligibility.
44 In such instances the division shall provide county welfare agencies
45 with all information the division may have available on the
46 individual.

1 The division shall notify all eligible recipients of the
2 Pharmaceutical Assistance to the Aged and Disabled program,
3 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the
4 medically needy program and the program's general requirements.
5 The division shall take all reasonable administrative actions to
6 ensure that Pharmaceutical Assistance to the Aged and Disabled
7 recipients, who notify the division that they may be eligible for the
8 program, have their applications processed expeditiously, at times
9 and locations convenient to the recipients; and

10 (iii) The division is responsible for certifying incurred medical
11 expenses for all eligible persons who attempt to qualify for the
12 program pursuant to subparagraph (d) of paragraph (8) of this
13 subsection;

14 (9) (a) Is a child who is at least one year of age and under 19
15 years of age and, if older than six years of age but under 19 years of
16 age, is uninsured; and

17 (b) Is a member of a family whose income does not exceed
18 133【%】 percent of the poverty level and who meets the federal
19 Medicaid eligibility requirements set forth in section 9401 of
20 Pub.L.99-509 (42 U.S.C. s.1396a);

21 (10) Is a pregnant woman who is determined by a provider to be
22 presumptively eligible for medical assistance based on criteria
23 established by the commissioner, pursuant to section 9407 of
24 Pub.L.99-509 (42 U.S.C. s.1396a(a));

25 (11) Is an individual 65 years of age and older, or an individual
26 who is blind or disabled pursuant to section 301 of Pub.L.92-603
27 (42 U.S.C. s.1382c), whose income does not exceed 100【%】
28 percent of the poverty level, adjusted for family size, and whose
29 resources do not exceed 100【%】 percent of the resource standard
30 used to determine medically needy eligibility pursuant to paragraph
31 (8) of this subsection;

32 (12) Is a qualified disabled and working individual pursuant to
33 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
34 does not exceed 200【%】 percent of the poverty level and whose
35 resources do not exceed 200【%】 percent of the resource standard
36 used to determine eligibility under the Supplemental Security
37 Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

38 (13) Is a pregnant woman or is a child who is under one year of
39 age and is a member of a family whose income does not exceed
40 185【%】 percent of the poverty level, or is a pregnant woman who is
41 a member of a family whose income does not exceed the highest
42 income eligibility level for pregnant women established under the
43 State plan under Title XIX of the federal Social Security Act, and
44 who meets the federal Medicaid eligibility requirements set forth in
45 section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a), except that a
46 pregnant woman who is determined to be a qualified applicant shall,
47 notwithstanding any change in the income of the family of which

1 she is a member, continue to be deemed a qualified applicant until
2 the end of the **【60-day】 180-day** period beginning on the last day of
3 her pregnancy;

4 (14) (Deleted by amendment, P.L.1997, c.272).

5 (15) (a) Is a specified low-income Medicare beneficiary
6 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning
7 January 1, 1993 do not exceed 200**【%】 percent** of the resource
8 standard used to determine eligibility under the Supplemental
9 Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and
10 whose income beginning January 1, 1993 does not exceed 110**【%】**
11 **percent** of the poverty level, and beginning January 1, 1995 does
12 not exceed 120**【%】 percent** of the poverty level.

13 (b) An individual who has, within 36 months, or within 60
14 months in the case of funds transferred into a trust, of applying to
15 be a qualified applicant for Medicaid services in a nursing facility
16 or a medical institution, or for home or community-based services
17 under section 1915(c) of the federal Social Security Act (42 U.S.C.
18 s.1396n(c)), disposed of resources or income for less than fair
19 market value shall be ineligible for assistance for nursing facility
20 services, an equivalent level of services in a medical institution, or
21 home or community-based services under section 1915(c) of the
22 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of
23 the ineligibility shall be the number of months resulting from
24 dividing the uncompensated value of the transferred resources or
25 income by the average monthly private payment rate for nursing
26 facility services in the State as determined annually by the
27 commissioner. In the case of multiple resource or income transfers,
28 the resulting penalty periods shall be imposed sequentially.
29 Application of this requirement shall be governed by 42 U.S.C.
30 s.1396p(c). In accordance with federal law, this provision is
31 effective for all transfers of resources or income made on or after
32 August 11, 1993. Notwithstanding the provisions of this subsection
33 to the contrary, the State eligibility requirements concerning
34 resource or income transfers shall not be more restrictive than those
35 enacted pursuant to 42 U.S.C. s.1396p(c).

36 (c) An individual seeking nursing facility services or home or
37 community-based services and who has a community spouse shall
38 be required to expend those resources which are not protected for
39 the needs of the community spouse in accordance with section
40 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))
41 on the costs of long-term care, burial arrangements, and any other
42 expense deemed appropriate and authorized by the commissioner.
43 An individual shall be ineligible for Medicaid services in a nursing
44 facility or for home or community-based services under section
45 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if
46 the individual expends funds in violation of this subparagraph. The
47 period of ineligibility shall be the number of months resulting from
48 dividing the uncompensated value of transferred resources and

1 income by the average monthly private payment rate for nursing
2 facility services in the State as determined by the commissioner.
3 The period of ineligibility shall begin with the month that the
4 individual would otherwise be eligible for Medicaid coverage for
5 nursing facility services or home or community-based services.

6 This subparagraph shall be operative only if all necessary
7 approvals are received from the federal government including, but
8 not limited to, approval of necessary State plan amendments and
9 approval of any waivers;

10 (16) Subject to federal approval under Title XIX of the federal
11 Social Security Act, is a dependent child, parent or specified
12 caretaker relative of a child who is a qualified applicant, who would
13 be eligible, without regard to resources, for the aid to families with
14 dependent children program under the State Plan for Title IV-A of
15 the federal Social Security Act as of July 16, 1996, except for the
16 income eligibility requirements of that program, and whose family
17 earned income,

18 (a) if a dependent child, does not exceed 133【%】 percent of the
19 poverty level; and

20 (b) if a parent or specified caretaker relative, beginning
21 September 1, 2005 does not exceed 100【%】 percent of the poverty
22 level, beginning September 1, 2006 does not exceed 115【%】
23 percent of the poverty level and beginning September 1, 2007 does
24 not exceed 133【%】 percent of the poverty level,
25 plus such earned income disregards as shall be determined
26 according to a methodology to be established by regulation of the
27 commissioner;

28 The commissioner may increase the income eligibility limits for
29 children and parents and specified caretaker relatives, as funding
30 permits;

31 (17) Is an individual from 18 through 20 years of age who is
32 not a dependent child and would be eligible for medical assistance
33 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to
34 income or resources, who, on the individual's 18th birthday was in
35 resource family care under the care and custody of the Division of
36 Child Protection and Permanency in the Department of Children
37 and Families and whose maintenance was being paid in whole or in
38 part from public funds;

39 (18) Is a person between the ages of 16 and 65 who is
40 permanently disabled and working, and:

41 (a) whose income is at or below 250【%】 percent of the poverty
42 level, plus other established disregards;

43 (b) who pays the premium contribution and other cost sharing as
44 established by the commissioner, subject to the limits and
45 conditions of federal law; and

46 (c) whose assets, resources and unearned income do not exceed
47 limitations as established by the commissioner;

- 1 (19) Is an uninsured individual under 65 years of age who:
- 2 (a) has been screened for breast or cervical cancer under the
- 3 federal Centers for Disease Control and Prevention breast and
- 4 cervical cancer early detection program;
- 5 (b) requires treatment for breast or cervical cancer based upon
- 6 criteria established by the commissioner;
- 7 (c) has an income that does not exceed the income standard
- 8 established by the commissioner pursuant to federal guidelines;
- 9 (d) meets all other Medicaid eligibility requirements; and
- 10 (e) in accordance with Pub.L.106-354, is determined by a
- 11 qualified entity to be presumptively eligible for medical assistance
- 12 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established
- 13 by the commissioner pursuant to section 1920B of the federal Social
- 14 Security Act (42 U.S.C. s.1396r-1b);
- 15 (20) Subject to federal approval under Title XIX of the federal
- 16 Social Security Act, is a single adult or couple, without dependent
- 17 children, whose income in 2006 does not exceed 50【%】 percent of
- 18 the poverty level, in 2007 does not exceed 75【%】 percent of the
- 19 poverty level and in 2008 and each year thereafter does not exceed
- 20 100【%】 percent of the poverty level; except that a person who is a
- 21 recipient of Work First New Jersey general public assistance,
- 22 pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), shall not be a
- 23 qualified applicant; or
- 24 (21) is an individual who:
- 25 (a) has an income that does not exceed the highest income
- 26 eligibility level for pregnant women established under the State
- 27 plan under Title XIX or Title XXI of the federal Social Security
- 28 Act;
- 29 (b) is not pregnant; and
- 30 (c) is eligible to receive family planning services provided
- 31 under the Medicaid program pursuant to subsection k. of section 6
- 32 of P.L.1968, c.413 (C.30:4D-6) and in accordance with
- 33 42 U.S.C. s.1396a(ii).
- 34 j. "Recipient" means any qualified applicant receiving benefits
- 35 under this act.
- 36 k. "Resident" means a person who is living in the State
- 37 voluntarily with the intention of making his home here and not for a
- 38 temporary purpose. Temporary absences from the State, with
- 39 subsequent returns to the State or intent to return when the purposes
- 40 of the absences have been accomplished, do not interrupt continuity
- 41 of residence.
- 42 l. "State Medicaid Commission" means the Governor, the
- 43 Commissioner of Human Services, the President of the Senate and
- 44 the Speaker of the General Assembly, hereby constituted a
- 45 commission to approve and direct the means and method for the
- 46 payment of claims pursuant to P.L.1968, c.413.
- 47 m. "Third party" means any person, institution, corporation,
- 48 insurance company, group health plan as defined in section 607(1)

1 of the federal "Employee Retirement and Income Security Act of
2 1974," 29 U.S.C. s.1167(1), service benefit plan, health
3 maintenance organization, or other prepaid health plan, or public,
4 private or governmental entity who is or may be liable in contract,
5 tort, or otherwise by law or equity to pay all or part of the medical
6 cost of injury, disease or disability of an applicant for or recipient
7 of medical assistance payable under P.L.1968, c.413.

8 n. "Governmental peer grouping system" means a separate
9 class of skilled nursing and intermediate care facilities administered
10 by the State or county governments, established for the purpose of
11 screening their reported costs and setting reimbursement rates under
12 the Medicaid program that are reasonable and adequate to meet the
13 costs that must be incurred by efficiently and economically operated
14 State or county skilled nursing and intermediate care facilities.

15 o. "Comprehensive maternity or pediatric care provider" means
16 any person or public or private health care facility that is a provider
17 and that is approved by the commissioner to provide comprehensive
18 maternity care or comprehensive pediatric care as defined in
19 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
20 (C.30:4D-6).

21 p. "Poverty level" means the official poverty level based on
22 family size established and adjusted under Section 673(2) of
23 Subtitle B, the "Community Services Block Grant Act," of
24 Pub.L.97-35 (42 U.S.C. s.9902(2)).

25 q. "Eligible alien" means one of the following:

26 (1) an alien present in the United States prior to August 22,
27 1996, who is:

28 (a) a lawful permanent resident;

29 (b) a refugee pursuant to section 207 of the federal "Immigration
30 and Nationality Act" (8 U.S.C. s.1157);

31 (c) an asylee pursuant to section 208 of the federal
32 "Immigration and Nationality Act" (8 U.S.C. s.1158);

33 (d) an alien who has had deportation withheld pursuant to
34 section 243(h) of the federal "Immigration and Nationality Act" (8
35 U.S.C. s.1253 (h));

36 (e) an alien who has been granted parole for less than one year
37 by the U.S. Citizenship and Immigration Services pursuant to
38 section 212(d)(5) of the federal "Immigration and Nationality Act"
39 (8 U.S.C. s.1182(d)(5));

40 (f) an alien granted conditional entry pursuant to section
41 203(a)(7) of the federal "Immigration and Nationality Act"
42 (8 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

43 (g) an alien who is honorably discharged from or on active duty
44 in the United States armed forces and the alien's spouse and
45 unmarried dependent child.

46 (2) An alien who entered the United States on or after August
47 22, 1996, who is:

1 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of
 2 this subsection; or
 3 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
 4 subsection who entered the United States at least five years ago.
 5 (3) A legal alien who is a victim of domestic violence in
 6 accordance with criteria specified for eligibility for public benefits
 7 as provided in Title V of the federal "Illegal Immigration Reform
 8 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).
 9 (cf: P.L.2018, c.1, s.1)

10

11 2. The Commissioner of Human Services shall apply for such
 12 State plan amendments or waivers as may be necessary to
 13 implement the provisions of this act and to secure federal financial
 14 participation for State Medicaid expenditures under the federal
 15 Medicaid program.

16

17 3. The Commissioner of Human Services, pursuant to the
 18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 19 seq.), shall adopt rules and regulations necessary to implement the
 20 provisions of this act.

21

22 4. This act shall take effect on the first day of the fourth month
 23 next following the date of enactment, but the Commissioner of
 24 Human Services may take such anticipatory administrative action in
 25 advance thereof as may be necessary for the implementation of this
 26 act.

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28

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STATEMENT

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31 This bill amends the law to extend the length of time of
 32 postpartum comprehensive Medicaid coverage for eligible pregnant
 33 women to a 180-day period, beginning on the last day of pregnancy.
 34 In doing so, this bill codifies budget language adopted in the FY
 35 2020 Appropriations Act. Under current State law, comprehensive
 36 Medicaid coverage for this population is provided for a 60-day
 37 period, beginning on the last day of the pregnancy. This 60-day
 38 period complies with federal regulations regarding the minimum
 39 time length for postpartum Medicaid coverage.

40 The bill also codifies that the income threshold for pregnant
 41 women under Medicaid must not exceed the highest income
 42 eligibility level established for pregnant women under the State
 43 Medicaid plan - currently 194 percent of the federal poverty level.
 44 Furthermore, the bill requires the Commissioner of Human Services
 45 to apply for such State plan amendments or waivers as may be
 46 necessary to implement the provisions of the bill and to secure
 47 federal financial participation for State Medicaid expenditures
 48 under the federal Medicaid program.