

ASSEMBLY, No. 4963

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2020

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Provides comprehensive Medicaid benefits to certain individuals formerly in foster care.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/8/2021)

1 AN ACT concerning Medicaid benefits for certain youth 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% of the State's payment level to two
45 person households under the aid to families with dependent children
46 program under the State Plan for Title IV-A of the federal Social
47 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% of the State's payment level to
3 similar size households under the aid to families with dependent
4 children program under the State Plan for Title IV-A of the federal
5 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% of the resource standard for recipients of Supplemental
10 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% of the resource standard for recipients of Supplemental
13 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 42
24 C.F.R.435.831(c) which will reduce their income to the applicable
25 medically needy income established in subparagraph (b) of
26 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% of the reasonable
35 costs of administration which are not reimbursed by the federal
36 government for the first 12 months of this program's operation.
37 Thereafter, 75% of the administrative costs incurred by county
38 welfare agencies which are not reimbursed by the federal
39 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.

47 The division shall notify all eligible recipients of the
48 Pharmaceutical Assistance to the Aged and Disabled program,

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

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

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

15 (b) Is a member of a family whose income does not exceed
16 133% of the poverty level and who meets the federal Medicaid
17 eligibility requirements set forth in section 9401 of Pub.L.99-509
18 (42 U.S.C. s.1396a);

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

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

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

35 (13) Is a pregnant woman or is a child who is under one year of
36 age and is a member of a family whose income does not exceed
37 185% of the poverty level and who meets the federal Medicaid
38 eligibility requirements set forth in section 9401 of Pub.L.99-509
39 (42 U.S.C. s.1396a), except that a pregnant woman who is
40 determined to be a qualified applicant shall, notwithstanding any
41 change in the income of the family of which she is a member,
42 continue to be deemed a qualified applicant until the end of the 60-
43 day period beginning on the last day of her pregnancy;

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

45 (15) (a) Is a specified low-income Medicare beneficiary
46 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning
47 January 1, 1993 do not exceed 200% of the resource standard used
48 to determine eligibility under the Supplemental Security Income

1 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income
2 beginning January 1, 1993 does not exceed 110% of the poverty
3 level, and beginning January 1, 1995 does not exceed 120% of the
4 poverty level.

5 (b) An individual who has, within 36 months, or within 60
6 months in the case of funds transferred into a trust, of applying to
7 be a qualified applicant for Medicaid services in a nursing facility
8 or a medical institution, or for home or community-based services
9 under section 1915(c) of the federal Social Security Act
10 (42 U.S.C. s.1396n(c)), disposed of resources or income for less
11 than fair market value shall be ineligible for assistance for nursing
12 facility services, an equivalent level of services in a medical
13 institution, or home or community-based services under section
14 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)).
15 The period of the ineligibility shall be the number of months
16 resulting from dividing the uncompensated value of the transferred
17 resources or income by the average monthly private payment rate
18 for nursing facility services in the State as determined annually by
19 the commissioner. In the case of multiple resource or income
20 transfers, the resulting penalty periods shall be imposed
21 sequentially. Application of this requirement shall be governed by
22 42 U.S.C. s.1396p(c). In accordance with federal law, this provision
23 is effective for all transfers of resources or income made on or after
24 August 11, 1993. Notwithstanding the provisions of this subsection
25 to the contrary, the State eligibility requirements concerning
26 resource or income transfers shall not be more restrictive than those
27 enacted pursuant to 42 U.S.C. s.1396p(c).

28 (c) An individual seeking nursing facility services or home or
29 community-based services and who has a community spouse shall
30 be required to expend those resources which are not protected for
31 the needs of the community spouse in accordance with section
32 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))
33 on the costs of long-term care, burial arrangements, and any other
34 expense deemed appropriate and authorized by the commissioner.
35 An individual shall be ineligible for Medicaid services in a nursing
36 facility or for home or community-based services under section
37 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if
38 the individual expends funds in violation of this subparagraph. The
39 period of ineligibility shall be the number of months resulting from
40 dividing the uncompensated value of transferred resources and
41 income by the average monthly private payment rate for nursing
42 facility services in the State as determined by the commissioner.
43 The period of ineligibility shall begin with the month that the
44 individual would otherwise be eligible for Medicaid coverage for
45 nursing facility services or home or community-based services.

46 This subparagraph shall be operative only if all necessary
47 approvals are received from the federal government including, but

1 not limited to, approval of necessary State plan amendments and
2 approval of any waivers;

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

11 (a) if a dependent child, does not exceed 133% of the poverty
12 level; and

13 (b) if a parent or specified caretaker relative, beginning
14 September 1, 2005 does not exceed 100% of the poverty level,
15 beginning September 1, 2006 does not exceed 115% of the poverty
16 level and beginning September 1, 2007 does not exceed 133% of
17 the poverty level,

18 plus such earned income disregards as shall be determined
19 according to a methodology to be established by regulation of the
20 commissioner;

21 The commissioner may increase the income eligibility limits for
22 children and parents and specified caretaker relatives, as funding
23 permits;

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

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

34 (a) whose income is at or below 250% of the poverty level, plus
35 other established disregards;

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

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

41 (19) Is an uninsured individual under 65 years of age who:

42 (a) has been screened for breast or cervical cancer under the
43 federal Centers for Disease Control and Prevention breast and
44 cervical cancer early detection program;

45 (b) requires treatment for breast or cervical cancer based upon
46 criteria established by the commissioner;

47 (c) has an income that does not exceed the income standard
48 established by the commissioner pursuant to federal guidelines;

1 (d) meets all other Medicaid eligibility requirements; and

2 (e) in accordance with Pub.L.106-354, is determined by a
3 qualified entity to be presumptively eligible for medical assistance
4 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established
5 by the commissioner pursuant to section 1920B of the federal Social
6 Security Act (42 U.S.C. s.1396r-1b);

7 (20) Subject to federal approval under Title XIX of the federal
8 Social Security Act, is a single adult or couple, without dependent
9 children, whose income in 2006 does not exceed 50% of the poverty
10 level, in 2007 does not exceed 75% of the poverty level and in 2008
11 and each year thereafter does not exceed 100% of the poverty level;
12 except that a person who is a recipient of Work First New Jersey
13 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-
14 107 et seq.), shall not be a qualified applicant; or

15 (21) is an individual who:

16 (a) has an income that does not exceed the highest income
17 eligibility level for pregnant women established under the State
18 plan under Title XIX or Title XXI of the federal Social Security
19 Act;

20 (b) is not pregnant; and

21 (c) is eligible to receive family planning services provided
22 under the Medicaid program pursuant to subsection k. of section 6
23 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.
24 s.1396a(ii); and

25 (22) Subject to federal approval and the availability of federal
26 financial participation pursuant to an approved waiver of, or
27 demonstration program under, Title XIX of the federal Social
28 Security Act (42 U.S.C.s.1396 et seq.), is an individual who:

29 (a) is between the ages of 18 and 25 years;

30 (b) is not a dependent child;

31 (c) was in resource family care under the care and custody of
32 the authorized child welfare agency of another state and whose
33 maintenance was paid in whole or in part from public funds at the
34 time that the individual attained the age at which said state elects to
35 terminate federal assistance under Title IV-E of the federal Social
36 Security Act (42 U.S.C.s.670 et seq.); and

37 (d) was enrolled in the state plan under Title XIX of another
38 state, or under a waiver of such state plan, at the time that the
39 individual attained the age at which said state elects to terminate
40 federal assistance under Title IV-E of the federal Social Security
41 Act (42 U.S.C. s.670 et seq.).

42 Individuals eligible for Title XIX benefits under this subsection
43 shall be eligible without regard to income or resources.

44 j. "Recipient" means any qualified applicant receiving benefits
45 under this act.

46 k. "Resident" means a person who is living in the State
47 voluntarily with the intention of making his home here and not for a
48 temporary purpose. Temporary absences from the State, with

1 subsequent returns to the State or intent to return when the purposes
2 of the absences have been accomplished, do not interrupt continuity
3 of residence.

4 l. "State Medicaid Commission" means the Governor, the
5 Commissioner of Human Services, the President of the Senate and
6 the Speaker of the General Assembly, hereby constituted a
7 commission to approve and direct the means and method for the
8 payment of claims pursuant to P.L.1968, c.413.

9 m. "Third party" means any person, institution, corporation,
10 insurance company, group health plan as defined in section 607(1)
11 of the federal "Employee Retirement and Income Security Act of
12 1974," 29 U.S.C. s.1167(1), service benefit plan, health
13 maintenance organization, or other prepaid health plan, or public,
14 private or governmental entity who is or may be liable in contract,
15 tort, or otherwise by law or equity to pay all or part of the medical
16 cost of injury, disease or disability of an applicant for or recipient
17 of medical assistance payable under P.L.1968, c.413.

18 n. "Governmental peer grouping system" means a separate
19 class of skilled nursing and intermediate care facilities administered
20 by the State or county governments, established for the purpose of
21 screening their reported costs and setting reimbursement rates under
22 the Medicaid program that are reasonable and adequate to meet the
23 costs that must be incurred by efficiently and economically operated
24 State or county skilled nursing and intermediate care facilities.

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

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

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

36 (1) an alien present in the United States prior to August 22,
37 1996, who is:

38 (a) a lawful permanent resident;

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

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

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

46 (e) an alien who has been granted parole for less than one year
47 by the U.S. Citizenship and Immigration Services pursuant to

1 section 212(d)(5) of the federal "Immigration and Nationality Act"
2 (8 U.S.C. s.1182(d)(5));
3 (f) an alien granted conditional entry pursuant to section
4 203(a)(7) of the federal "Immigration and Nationality Act"
5 (8 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or
6 (g) an alien who is honorably discharged from or on active duty
7 in the United States armed forces and the alien's spouse and
8 unmarried dependent child.
9 (2) An alien who entered the United States on or after August
10 22, 1996, who is:
11 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of
12 this subsection; or
13 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
14 subsection who entered the United States at least five years ago.
15 (3) A legal alien who is a victim of domestic violence in
16 accordance with criteria specified for eligibility for public benefits
17 as provided in Title V of the federal "Illegal Immigration Reform
18 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).
19 (cf: P.L.2018, c.1, s.1)
20

21 2. The Commissioner of Human Services shall apply to the
22 United States Department of Health and Human Services for such
23 waivers or state plan amendments as may be necessary to
24 implement the provisions of this act and to secure federal financial
25 participation for State Medicaid expenditures under the federal
26 Medicaid program.
27

28 3. The Commissioner of Human Services shall, in accordance
29 with the "Administrative Procedures Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), adopt such rules and regulations as the
31 commissioner deems necessary to carry out the provisions of this
32 act.
33

34 4. This act shall take effect on the first day of the fourth month
35 next following the date of enactment, except the commissioner may
36 take any anticipatory administrative action in advance thereof as
37 shall be necessary for the implementation of this act.
38
39

40 STATEMENT

41
42 This bill requires the Commissioner of Human Services to apply
43 to the federal Centers for Medicare and Medicaid Services (CMS)
44 for Section 1115 demonstration authority to extend New Jersey
45 FamilyCare coverage to individuals up to age 26 who were in foster
46 care under the responsibility of another state when the individual
47 attained the age at which said state has selected for termination of
48 federal foster care assistance under Title IV-E of the federal Social

1 Security Act (42 U.S.C. s.670 et seq.). These former foster youth
2 would be eligible for New Jersey FamilyCare coverage up to age
3 26, regardless of income or resources. The bill brings the State into
4 compliance with federal law, pursuant to the SUPPORT for Patients
5 and Communities Act, Pub.L.115-271 (42 U.S.C. s.1396a et seq.),
6 albeit in advance of the federally mandated effective date of
7 calendar year 2023.

8 The Affordable Care Act (ACA) allows young adults to maintain
9 health insurance coverage under their parents' or guardians' health
10 plan until age 26, provided the health plan extends coverage to
11 dependents. In order to provide a parallel benefit to former foster
12 youth who were enrolled in Medicaid at the time that they aged out
13 of the foster care system, the ACA added these youth as a new,
14 mandatory Medicaid eligibility group at section
15 1902(a)(10)(A)(i)(IX) of the federal Security Act (42 U.S.C. s.1396
16 et seq.).

17 As of January 2019, according to a Kaiser Family Foundation
18 Survey, eleven states have extended Medicaid coverage to former
19 foster youth from other states up to age 26 through Medicaid
20 Section 1115 demonstration waivers.

21 It is the intent of the bill's sponsor to extend critical Medicaid
22 benefits to this group of vulnerable young adults as expeditiously as
23 possible, since many of these young adults may be living without
24 health insurance due to the economic downturn caused by the
25 coronavirus 2019 (COVID-19) pandemic.