

[First Reprint]

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)

Co-Sponsored by:

**Assemblywoman Mosquera, Assemblyman Mejia, Assemblywomen Swain
and Vainieri Huttle**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 17, 2021,
with amendments.



(Sponsorship Updated As Of: 3/25/2021)

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 as
8 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 Services.

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

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

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

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

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

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 17, 2021.

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

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

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

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

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

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

30 (i) Pregnant women;

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

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

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

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

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

43 (ii) For households of three or more persons, the income standard
44 shall be set at 133 1/3% of the State's payment level to similar size
45 households under the aid to families with dependent children program
46 under the State Plan for Title IV-A of the federal Social Security Act
47 in effect as of July 16, 1996.

1 (c) The following resource standard shall be used to determine
2 medically needy eligibility:

3 (i) For one person households, the resource standard shall be
4 200% of the resource standard for recipients of Supplemental Security
5 Income pursuant to 42 U.S.C. s.1382(1)(B);

6 (ii) For two person households, the resource standard shall be
7 200% of the resource standard for recipients of Supplemental Security
8 Income pursuant to 42 U.S.C. s.1382(2)(B);

9 (iii) For households of three or more persons, the resource
10 standard in subparagraph (c)(ii) above shall be increased by \$100.00
11 for each additional person; and

12 (iv) The resource standards established in (i), (ii), and (iii) are
13 subject to federal approval and the resource standard may be lower if
14 required by the federal Department of Health and Human Services.

15 (d) Individuals whose income exceeds those established in
16 subparagraph (b) of paragraph (8) of this subsection may become
17 medically needy by incurring medical expenses as defined in 42
18 C.F.R.435.831(c) which will reduce their income to the applicable
19 medically needy income established in subparagraph (b) of paragraph
20 (8) of this subsection.

21 (e) A six-month period shall be used to determine whether an
22 individual is medically needy.

23 (f) Eligibility determinations for the medically needy program
24 shall be administered as follows:

25 (i) County welfare agencies and other entities designated by the
26 commissioner are responsible for determining and certifying the
27 eligibility of pregnant women and dependent children. The division
28 shall reimburse county welfare agencies for 100% of the reasonable
29 costs of administration which are not reimbursed by the federal
30 government for the first 12 months of this program's operation.
31 Thereafter, 75% of the administrative costs incurred by county welfare
32 agencies which are not reimbursed by the federal government shall be
33 reimbursed by the division;

34 (ii) The division is responsible for certifying the eligibility of
35 individuals who are 65 years of age and older and individuals who are
36 blind or disabled. The division may enter into contracts with county
37 welfare agencies to determine certain aspects of eligibility. In such
38 instances the division shall provide county welfare agencies with all
39 information the division may have available on the individual.

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

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

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

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

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

16 (11) Is an individual 65 years of age and older, or an individual
17 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
18 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
19 level, adjusted for family size, and whose resources do not exceed
20 100% of the resource standard used to determine medically needy
21 eligibility pursuant to paragraph (8) of this subsection;

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

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

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

38 (15) (a) Is a specified low-income Medicare beneficiary pursuant
39 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
40 1993 do not exceed 200% of the resource standard used to determine
41 eligibility under the Supplemental Security Income program,
42 P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning
43 January 1, 1993 does not exceed 110% of the poverty level, and
44 beginning January 1, 1995 does not exceed 120% of the poverty level.

45 (b) An individual who has, within 36 months, or within 60 months
46 in the case of funds transferred into a trust, of applying to be a
47 qualified applicant for Medicaid services in a nursing facility or a
48 medical institution, or for home or community-based services under

1 section 1915(c) of the federal Social Security Act
2 (42 U.S.C. s.1396n(c)), disposed of resources or income for less than
3 fair market value shall be ineligible for assistance for nursing facility
4 services, an equivalent level of services in a medical institution, or
5 home or community-based services under section 1915(c) of the
6 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of the
7 ineligibility shall be the number of months resulting from dividing the
8 uncompensated value of the transferred resources or income by the
9 average monthly private payment rate for nursing facility services in
10 the State as determined annually by the commissioner. In the case of
11 multiple resource or income transfers, the resulting penalty periods
12 shall be imposed sequentially. Application of this requirement shall be
13 governed by 42 U.S.C. s.1396p(c). In accordance with federal law, this
14 provision is effective for all transfers of resources or income made on
15 or after August 11, 1993. Notwithstanding the provisions of this
16 subsection to the contrary, the State eligibility requirements
17 concerning resource or income transfers shall not be more restrictive
18 than those enacted pursuant to 42 U.S.C. s.1396p(c).

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

37 This subparagraph shall be operative only if all necessary
38 approvals are received from the federal government including, but not
39 limited to, approval of necessary State plan amendments and approval
40 of any waivers;

41 (16) Subject to federal approval under Title XIX of the federal
42 Social Security Act, is a dependent child, parent or specified caretaker
43 relative of a child who is a qualified applicant, who would be eligible,
44 without regard to resources, for the aid to families with dependent
45 children program under the State Plan for Title IV-A of the federal
46 Social Security Act as of July 16, 1996, except for the income
47 eligibility requirements of that program, and whose family earned
48 income,

1 (a) if a dependent child, does not exceed 133% of the poverty
2 level; and
3 (b) if a parent or specified caretaker relative, beginning September
4 1, 2005 does not exceed 100% of the poverty level, beginning
5 September 1, 2006 does not exceed 115% of the poverty level and
6 beginning September 1, 2007 does not exceed 133% of the poverty
7 level,
8 plus such earned income disregards as shall be determined according
9 to a methodology to be established by regulation of the commissioner;
10 The commissioner may increase the income eligibility limits for
11 children and parents and specified caretaker relatives, as funding
12 permits;
13 (17) Is an individual from 18 through 20 years of age who is not a
14 dependent child and would be eligible for medical assistance pursuant
15 to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to income or
16 resources, who, on the individual's 18th birthday was in resource
17 family care under the care and custody of the Division of Child
18 Protection and Permanency in the Department of Children and
19 Families and whose maintenance was being paid in whole or in part
20 from public funds;
21 (18) Is a person between the ages of 16 and 65 who is
22 permanently disabled and working, and:
23 (a) whose income is at or below 250% of the poverty level, plus
24 other established disregards;
25 (b) who pays the premium contribution and other cost sharing as
26 established by the commissioner, subject to the limits and conditions
27 of federal law; and
28 (c) whose assets, resources and unearned income do not exceed
29 limitations as established by the commissioner;
30 (19) Is an uninsured individual under 65 years of age who:
31 (a) has been screened for breast or cervical cancer under the
32 federal Centers for Disease Control and Prevention breast and cervical
33 cancer early detection program;
34 (b) requires treatment for breast or cervical cancer based upon
35 criteria established by the commissioner;
36 (c) has an income that does not exceed the income standard
37 established by the commissioner pursuant to federal guidelines;
38 (d) meets all other Medicaid eligibility requirements; and
39 (e) in accordance with Pub.L.106-354, is determined by a qualified
40 entity to be presumptively eligible for medical assistance pursuant to
41 42 U.S.C. s.1396a(aa), based upon criteria established by the
42 commissioner pursuant to section 1920B of the federal Social Security
43 Act (42 U.S.C. s.1396r-1b);
44 (20) Subject to federal approval under Title XIX of the federal
45 Social Security Act, is a single adult or couple, without dependent
46 children, whose income in 2006 does not exceed 50% of the poverty
47 level, in 2007 does not exceed 75% of the poverty level and in 2008
48 and each year thereafter does not exceed 100% of the poverty level;

1 except that a person who is a recipient of Work First New Jersey
2 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-
3 107 et seq.), shall not be a qualified applicant; or

4 (21) is an individual who:

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

8 (b) is not pregnant; and

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

13 (22) Subject to federal approval and the availability of federal
14 financial participation pursuant to an approved ¹State Plan
15 amendment, ¹waiver of, or demonstration program under, Title XIX of
16 the federal Social Security Act (42 U.S.C.s.1396 et seq.), is an
17 individual who:

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

19 (b) is not a dependent child;

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

26 (d) was enrolled in the state plan under Title XIX of another state,
27 or under a waiver ¹or amendment¹ of such state plan, at the time that
28 the individual attained the age at which said state elects to terminate
29 federal assistance under Title IV-E of the federal Social Security Act
30 (42 U.S.C. s.670 et seq.).

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

33 j. "Recipient" means any qualified applicant receiving benefits
34 under this act.

35 k. "Resident" means a person who is living in the State
36 voluntarily with the intention of making his home here and not for a
37 temporary purpose. Temporary absences from the State, with
38 subsequent returns to the State or intent to return when the purposes of
39 the absences have been accomplished, do not interrupt continuity of
40 residence.

41 l. "State Medicaid Commission" means the Governor, the
42 Commissioner of Human Services, the President of the Senate and the
43 Speaker of the General Assembly, hereby constituted a commission to
44 approve and direct the means and method for the payment of claims
45 pursuant to P.L.1968, c.413.

46 m. "Third party" means any person, institution, corporation,
47 insurance company, group health plan as defined in section 607(1) of
48 the federal "Employee Retirement and Income Security Act of 1974,"

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

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

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

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

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

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

27 (a) a lawful permanent resident;

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

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

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

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

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

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

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

47 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
48 subsection; or

1 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
2 subsection who entered the United States at least five years ago.

3 (3) A legal alien who is a victim of domestic violence in
4 accordance with criteria specified for eligibility for public benefits as
5 provided in Title V of the federal "Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).
7 (cf: P.L.2018, c.1, s.1)
8

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

16 3. The Commissioner of Human Services shall, in accordance
17 with the "Administrative Procedures Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.), adopt such rules and regulations as the
19 commissioner deems necessary to carry out the provisions of this
20 act.
21

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