

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 117

101ST GENERAL ASSEMBLY

5103H.02P

DANA RADEMAN MILLER, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 36(c) of Article IV of the Constitution of Missouri, and adopting four new sections in lieu thereof relating to MO HealthNet.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2022, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article IV of the Constitution of the state of Missouri:

Section A. Section 36(c), Article IV, Constitution of Missouri, is repealed and four new sections adopted in lieu thereof, to be known as Sections 36(c), 36(d), 36(e), and 36(f), to read as follows:

Section 36(c). 1. ~~[Notwithstanding any provision of law to the contrary, beginning July 1, 2021]~~ **(1) Subject to the provisions of subdivision (2) of this subsection,** individuals nineteen years of age or older and under sixty-five years of age who qualify for MO HealthNet services under 42 U.S.C. Section 1396a(a)(10)(A)(i)(VIII) and as set forth in 42 C.F.R. 435.119, and who have income at or below one hundred thirty-three percent of the federal poverty level plus five percent of the applicable family size as determined under 42 U.S.C. Section 1396a(e)(14) and as set forth in 42 C.F.R. 435.603, shall be eligible for medical assistance under MO HealthNet and shall receive coverage for the health benefits service package.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 **(2) Eligibility for MO HealthNet services under subdivision (1) of this subsection**
11 **shall be determined each fiscal year based on whether the general assembly makes an**
12 **appropriation for MO HealthNet services for that fiscal year for the population**
13 **described in subdivision (1) of this subsection by specifically naming such population in**
14 **the appropriation. If an appropriation specifically naming the population described in**
15 **subdivision (1) of this subsection is not made for a fiscal year, such population shall not**
16 **be eligible for MO HealthNet services for that fiscal year. An appropriation that does**
17 **not specifically name the population described in subdivision (1) of this subsection shall**
18 **not be used to make payments for medical assistance under MO HealthNet for such**
19 **population.**

20 2. For purposes of this section "health benefits service package" shall mean benefits
21 covered by the MO HealthNet program as determined by the department of social services to
22 meet the benchmark or benchmark-equivalent coverage requirement under 42 U.S.C. Section
23 1396a(k)(1) and any implementing regulations.

24 3. No later than March 1, 2021, the Department of Social Services and the MO
25 HealthNet Division shall submit all state plan amendments necessary to implement this
26 section to the United States Department of Health and Human Services, Centers for Medicare
27 and Medicaid Services.

28 4. The Department of Social Services and the MO HealthNet Division shall take all
29 actions necessary to maximize federal financial participation in funding medical assistance
30 pursuant to this section.

31 5. ~~[No greater or additional burdens or restrictions on eligibility or enrollment~~
32 ~~standards, methodologies, or practices shall be imposed on persons eligible for MO~~
33 ~~HealthNet services pursuant to this section than on any other population eligible for medical~~
34 ~~assistance.~~

35 ~~6.]~~ All references to federal or state statutes, regulations or rules in this section shall
36 be to the version of those statutes, regulations or rules that existed on January 1, 2019.

37 **6. Nothing in this section or any other provision of law shall be construed to**
38 **mandate the appropriation of funds by the general assembly for MO HealthNet services**
39 **for the population described in subdivision (1) of subsection 1 of this section.**

40 **7. Notwithstanding any other provision of law, the general assembly shall have**
41 **the right to appropriate funds in a specified amount, to be determined at its discretion,**
42 **or not appropriate funds specifically for MO HealthNet services for individuals**
43 **described in subdivision (1) of subsection 1 of this section separate and apart from funds**
44 **appropriated for MO HealthNet services for individuals eligible for MO HealthNet**
45 **services under any provision of law other than this section.**

Section 36(d). 1. In any given fiscal year, any population made eligible for MO HealthNet services under any provision of law shall be eligible only if an appropriation for that population is made in that fiscal year.

2. In any given fiscal year, any service or type of provider for which reimbursement is allowed under the MO HealthNet program shall be eligible for reimbursement only if an appropriation for that service or type of provider is made in that fiscal year.

Section 36(e). 1. The state shall not provide payments, add-ons, or reimbursements to health care providers through MO HealthNet for medical assistance services provided to persons who are not residents of the state, as determined under 42 CFR 435.403 or any amendments or successor regulations thereto.

2. The department of social services shall submit all state plan amendments necessary to implement this section to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services. The provisions of this section shall become effective ninety days after the date of approval of all state plan amendments necessary to effectuate the changes contemplated under this section.

Section 36(f). 1. Subject to approval of a work and community engagement demonstration waiver under subsection 6 of this section, MO HealthNet participants nineteen years of age or older and under sixty-five years of age shall comply with the work and community engagement requirements under this section in order to remain eligible for MO HealthNet benefits unless otherwise exempt from such requirements. Work and community engagement requirements shall include at least eighty hours each month of:

- (1) Unsubsidized or subsidized private or public sector employment;
- (2) Education, including vocational educational training, job skills training directly related to employment, education directly related to employment for individuals who have not received a high school diploma or certificate of high school equivalency, or satisfactory attendance at a secondary school;
- (3) Community service;
- (4) Job search and job readiness assistance;
- (5) Provision of child care services to an individual who is participating in a community service program;
- (6) Participation in a substance abuse treatment program; or
- (7) Any combination thereof.

2. A MO HealthNet participant who is also a participant of the temporary assistance for needy families program or the supplemental nutrition assistance program

21 and who satisfies work requirements related to either of those programs shall be deemed
22 to have satisfied the work and community engagement requirements under this section.

23 3. The work and community engagement requirements under this section shall
24 not apply to a participant who is:

25 (1) Under nineteen years of age or sixty-five years of age or older;

26 (2) Medically frail, including any individual with:

27 (a) A disabling mental disorder;

28 (b) A serious and complex medical condition;

29 (c) A physical, intellectual, or developmental disability that significantly impairs
30 the individual's ability to perform one or more activities of daily living; or

31 (d) A disability determination based on criteria under the Social Security Act,
32 including a current determination by the department of social services that the
33 individual is permanently or totally disabled;

34 (3) Pregnant or caring for a child under one year of age;

35 (4) A primary caregiver of a dependent child under six years of age or a
36 dependent adult, provided that not more than one participant shall claim primary
37 caregiver status in a household; or

38 (5) A participant who is also a participant of the temporary assistance for needy
39 families program or the supplemental nutrition assistance program and who is exempt
40 from the work requirements of either of those programs.

41 4. In order to ensure that work and community engagement requirements are
42 not impossible or unduly burdensome for participants, the department of social services
43 may permit further exemptions from the work and community engagement
44 requirements under this section in areas of high unemployment, areas with limited
45 economic or educational opportunities, or areas that lack public transportation, or for
46 good cause. Good cause shall include, but not be limited to, the following
47 circumstances:

48 (1) The participant has a disability as defined by the Americans with Disabilities
49 Act, Section 504 of the Rehabilitation Act of 1973, or Section 1557 of the Patient
50 Protection and Affordable Care Act and is unable to meet the work and community
51 engagement requirements for reasons related to that disability;

52 (2) The participant has an immediate family member in the home with a
53 disability as defined by the Americans with Disabilities Act, Section 504 of the
54 Rehabilitation Act of 1973, or Section 1557 of the Patient Protection and Affordable
55 Care Act and the participant is unable to meet the work and community engagement
56 requirements for reasons related to the disability of such family member;

57 **(3) The participant or an immediate family member in the home experiences a**
58 **hospitalization or serious illness;**

59 **(4) The participant experiences the birth or death of a family member in the**
60 **home;**

61 **(5) The participant experiences severe inclement weather, including a natural**
62 **disaster, and is unable to meet the work and community engagement requirements; or**

63 **(6) The participant experiences a family emergency or other life-changing event,**
64 **including divorce or domestic violence.**

65 **5. The department of social services shall provide reasonable accommodations**
66 **for participants with disabilities as defined by the Americans with Disabilities Act,**
67 **Section 504 of the Rehabilitation Act of 1973, or Section 1557 of the Patient Protection**
68 **and Affordable Care Act, as necessary, to enable such participants an equal opportunity**
69 **to participate in and benefit from the work and community engagement requirements**
70 **under this section. Reasonable accommodations shall include, but not be limited to, the**
71 **following:**

72 **(1) Exemption from the work and community engagement requirements when**
73 **the participant is unable to comply for reasons relating to his or her disability;**

74 **(2) Modification in the number of hours of work and community engagement**
75 **required when a participant is unable to comply with the required number of hours; or**

76 **(3) Provision of support services necessary for compliance, when compliance is**
77 **possible with such supports.**

78 **6. The department of social services shall annually seek a work and community**
79 **engagement demonstration waiver under Section 1115 of the Social Security Act until**
80 **such waiver is granted and any subsequent renewal and extension from the United**
81 **States Department of Health and Human Services necessary to implement the**
82 **provisions of this section.**

 Section B. Pursuant to chapter 116, and other applicable constitutional provisions and
2 laws of this state allowing the general assembly to adopt ballot language for the submission of
3 this joint resolution to the voters of this state, the official summary statement of this
4 resolution shall be as follows:

5 "Shall the Missouri Constitution be amended to:

- 6 • Limit Medicaid benefits to Missouri residents;
- 7 • Require able-bodied adult Medicaid recipients to participate in work and
8 community engagement; and

9 • Determine Medicaid eligibility for the expansion population and other populations
10 and reimbursement for services and types of providers based on annual appropriations?"

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