



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fourth Legislature

Second Regular Session - 2018

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

1 RELATING TO HEALTH CARE; AMENDING CHAPTER 52, TITLE 41, IDAHO CODE, BY THE  
 2 ADDITION OF A NEW SECTION 41-5213, IDAHO CODE, TO AUTHORIZE APPLICATION  
 3 FOR A CERTAIN WAIVER; AMENDING SECTION 41-5503, IDAHO CODE, TO PROVIDE  
 4 THAT THE BOARD OF DIRECTORS OF THE IDAHO INDIVIDUAL HIGH RISK REINSUR-  
 5 ANCE POOL SHALL TAKE CERTAIN ACTION; AMENDING SECTION 56-254, IDAHO  
 6 CODE, TO PROVIDE MEDICAL ASSISTANCE ELIGIBILITY FOR CERTAIN INDIVIDU-  
 7 ALS CONTINGENT ON FEDERAL APPROVAL AND TO MAKE TECHNICAL CORRECTIONS;  
 8 AND AMENDING SECTION 56-257, IDAHO CODE, TO PROVIDE THAT THE STATE DE-  
 9 PARTMENT OF HEALTH AND WELFARE SHALL ESTABLISH PREMIUMS SUBJECT TO THE  
 10 TERMS OF CERTAIN WAIVERS.  
 11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Chapter 52, Title 41, Idaho Code, be, and the same is  
 14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 15 ignated as Section 41-5213, Idaho Code, and to read as follows:

16 41-5213. AUTHORITY TO APPLY FOR STATE INNOVATION WAIVER. The director  
 17 may apply to the United States secretary of health and human services under  
 18 42 U.S.C. 18052 for a waiver of applicable provisions of the patient protec-  
 19 tion and affordable care act, Public Law 111-148, with respect to health in-  
 20 surance coverage subject to the provisions of this chapter.

21 SECTION 2. That Section 41-5503, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 41-5503. PLAN OF OPERATION. (1) The board shall submit to the direc-  
 24 tor a plan of operation and thereafter any amendments thereto necessary or  
 25 suitable to assure the fair, reasonable and equitable administration of the  
 26 pool. The director may, after notice and hearing, approve the plan of opera-  
 27 tion if the director determines it to be suitable to assure the fair, reason-  
 28 able and equitable administration of the pool, and to provide for the sharing  
 29 of pool gains or losses on an equitable and proportionate basis in accordance  
 30 with the provisions of this chapter. The plan of operation shall become ef-  
 31 fective upon written approval by the director.

32 (2) If the board fails to submit a suitable plan of operation, the di-  
 33 rector shall, after notice and hearing, adopt and promulgate a temporary  
 34 plan of operation. The director shall approve the plan of operation submit-  
 35 ted by the board, or adopt a temporary plan of operation if the board fails to  
 36 submit a suitable plan. The director shall amend or rescind any plan adopted  
 37 under the provisions of this section at the time a plan of operation is sub-  
 38 mitted by the board and approved by the director.

39 (3) The plan of operation shall:

- 1 (a) Establish procedures for handling and accounting of pool assets and  
2 moneys and for an annual fiscal reporting to the director;
- 3 (b) Establish procedures for selecting an administrator, and setting  
4 forth the powers and duties of the administrator;
- 5 (c) Establish procedures for reinsuring risks in accordance with the  
6 provisions of this chapter;
- 7 (d) Establish procedures and conditions for a carrier to cede individu-  
8 als with certain high risk medical conditions;
- 9 (e) Define the high risk medical conditions for which carriers are al-  
10 lowed to cede for reinsurance;
- 11 (f) Set forth the reinsurance parameters including, but not limited  
12 to, the initial level of claims for which the reinsuring carrier is  
13 responsible, the coinsurance percentage at which claims above the ini-  
14 tial level are reinsured by the pool, and the maximum claims limit above  
15 which the pool no longer reimburses;
- 16 (g) Establish procedures for collecting assessments from carriers to  
17 fund claims and administrative expenses incurred or estimated to be in-  
18 curred by the pool; and
- 19 (h) Provide for any additional matters necessary for the implementa-  
20 tion and administration of the pool.
- 21 (4) Contingent on approval of a waiver of applicable provisions of the  
22 patient protection and affordable care act, Public Law 111-148, providing  
23 additional funding, the board shall review the plan of operation to identify  
24 changes to paragraphs (c) through (f) of subsection (3) of this section nec-  
25 essary to better serve Idahoans enrolled in individual health benefit plans  
26 and to stabilize the individual health insurance market. The board shall  
27 submit recommended changes to the director for approval.

28 SECTION 3. That Section 56-254, Idaho Code, be, and the same is hereby  
29 amended to read as follows:

30 56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. The department shall make  
31 payments for medical assistance to, or on behalf of, the following persons  
32 eligible for medical assistance.

33 (1) The benchmark plan for low-income children and working-age adults  
34 with no special health needs includes the following persons:

35 (a) Children in families whose family income does not exceed one hun-  
36 dred eighty-five percent (185%) of the federal poverty guideline and  
37 who meet age-related and other eligibility standards in accordance with  
38 department rule;

39 (b) Pregnant women of any age whose family income does not exceed one  
40 hundred thirty-three percent (133%) of the federal poverty guideline  
41 and who meet other eligibility standards in accordance with department  
42 rule, or who meet the presumptive eligibility guidelines in accordance  
43 with section 1920 of the social security act;

44 (c) Infants born to medicaid-eligible pregnant women. Medicaid eligi-  
45 bility must be offered throughout the first year of life as long as the  
46 infant remains in the mother's household and she remains eligible, or  
47 would be eligible if she were still pregnant;

48 (d) Adults in families with dependent children, as described in sec-  
49 tion 1931 of the social security act, who meet the requirements in the

1 state's assistance to families with dependent children (AFDC) plan in  
2 effect on July 16, 1996;

3 (e) Families who are provided six (6) to twelve (12) months of medicaid  
4 coverage following loss of eligibility under section 1931 of the social  
5 security act due to earnings, or four (4) months of medicaid coverage  
6 following loss of eligibility under section 1931 of the social security  
7 act due to an increase in child or spousal support;

8 (f) Employees of small businesses who meet the definition of "eligible  
9 adult" as described in section 56-238, Idaho Code, whose eligibility is  
10 limited to the medical assistance program described in section 56-241,  
11 Idaho Code;

12 (g) All other mandatory groups as defined in title XIX of the social se-  
13 curity act, if not listed separately in subsection (2) or (3) of this  
14 section.

15 (2) The benchmark plan for persons with disabilities or special health  
16 needs includes the following persons:

17 (a) Persons under age sixty-five (65) years eligible in accordance with  
18 title XVI of the social security act, as well as persons eligible for aid  
19 to the aged, blind and disabled (AABD) under titles I, X and XIV of the  
20 social security act;

21 (b) Persons under age sixty-five (65) years who are in need of the ser-  
22 vices of a licensed nursing facility, a licensed intermediate care fa-  
23 cility for the developmentally disabled, a state mental hospital, or  
24 home-based and community-based care, whose income does not exceed three  
25 hundred percent (300%) of the social security income (SSI) standard and  
26 who meet the asset standards and other eligibility standards in accor-  
27 dance with federal law and regulation, Idaho law and department rule;

28 (c) Certain disabled children described in 42 CFR 435.225 who meet re-  
29 source limits for aid to the aged, blind and disabled (AABD) and income  
30 limits for social security income (SSI) and other eligibility standards  
31 in accordance with department rules;

32 (d) Persons under age sixty-five (65) years who are eligible for ser-  
33 vices under both titles XVIII and XIX of the social security act;

34 (e) Children who are eligible under title IV-E of the social security  
35 act for subsidized board payments, foster care or adoption subsidies,  
36 and children for whom the state has assumed temporary or permanent re-  
37 sponsibility and who do not qualify for title IV-E assistance but are in  
38 foster care, shelter or emergency shelter care, or subsidized adoption,  
39 and who meet eligibility standards in accordance with department rule;

40 (f) Eligible women under age sixty-five (65) years with incomes at or  
41 below two hundred percent (200%) of the federal poverty level, for can-  
42 cer treatment pursuant to the federal breast and cervical cancer pre-  
43 vention and treatment act of 2000;

44 (g) Low-income children and working-age adults under age sixty-five  
45 (65) years who qualify under subsection (1) of this section and who  
46 require the services for persons with disabilities or special health  
47 needs listed in section 56-255(3), Idaho Code;

48 (h) Persons over age sixty-five (65) years who choose to enroll in this  
49 state plan; and

1 (i) Effective January 1, 2018, children under age eighteen (18) years  
 2 with serious emotional disturbance, as defined in section 16-2403,  
 3 Idaho Code, in families whose income does not exceed three hundred  
 4 percent (300%) of the federal poverty guideline and who meet other eli-  
 5 gibility standards in accordance with department rule; and  
 6 (j) Effective as soon as federal approval for coverage can be obtained,  
 7 persons with costly and complex medical conditions in accordance with  
 8 the approved waiver who:

9 (i) Are under the age of sixty-five (65) years;

10 (ii) Have incomes less than the maximum allowable level for feder-  
 11 ally supported advance premium tax credits;

12 (iii) Are not eligible for other coverage under this chapter; and

13 (iv) Do not have access to affordable employer-sponsored coverage  
 14 as defined in 26 CFR 1.36B.

15 (3) The benchmark plan for persons over twenty-one (21) years of age who  
 16 have medicare and medicaid coverage includes the following persons:

17 (a) Persons eligible in accordance with title XVI of the social secu-  
 18 rity act, as well as persons eligible for aid to the aged, blind and dis-  
 19 abled (AABD) under titles I, X and XIV of the social security act;

20 (b) Persons who are in need of the services of a licensed nursing fa-  
 21 cility, a licensed intermediate care facility for the developmentally  
 22 disabled, a state mental hospital, or home-based and community-based  
 23 care, whose income does not exceed three hundred percent (300%) of the  
 24 social security income (SSI) standard and who meet the assets standards  
 25 and other eligibility standards in accordance with federal and state  
 26 law and department rule;

27 (c) Persons who are eligible for services under both titles XVIII and  
 28 XIX of the social security act who have enrolled in the medicare pro-  
 29 gram; and

30 (d) Persons who are eligible for services under both titles XVIII and  
 31 XIX of the social security act and who elect to enroll in this state  
 32 plan.

33 SECTION 4. That Section 56-257, Idaho Code, be, and the same is hereby  
 34 amended to read as follows:

35 56-257. COPAYMENTS AND PREMIUMS. (1) Within the limits of federal med-  
 36 icaid law and regulations, the department of health and welfare shall estab-  
 37 lish enforceable cost sharing in order to increase the awareness and respon-  
 38 sibility of medicaid participants for the cost of their health care and to  
 39 encourage use of cost-effective care in the most appropriate setting. Co-  
 40 payments established by department rule may include, but not be limited to,  
 41 the following:

42 (a) Medicaid services including, but not limited to, chiropractic vis-  
 43 its, podiatrist visits, optometrist visits, physical therapy visits,  
 44 occupational therapy visits, speech therapy visits, outpatient hospi-  
 45 tal visits and physician office visits;

46 (b) Inappropriate use of emergency medicaid reimbursed services, in-  
 47 cluding hospital emergency room and emergency transportation; and

1 (c) Missed appointments with health care providers when it is the prac-  
2 tice of the health care provider to charge such copayments to all of  
3 their patients regardless of payer.

4 (2) The director may exempt, subject to federal approval, any group of  
5 medicaid participants from the cost-sharing provisions in this section.

6 (3) In accordance with federal medicaid law and regulations, and sub-  
7 ject to the terms of any waivers granted by the federal centers for medicare  
8 and medicaid services, the department of health and welfare will establish  
9 premiums for medicaid participants described in section 56-254(2)(j), Idaho  
10 Code.