

SENATE, No. 524

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator TROY SINGLETON

District 7 (Burlington)

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;

46 (3) Is an "ineligible spouse" of a recipient of Supplemental
47 Security Income for the Aged, Blind and Disabled under Title XVI

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 of the Social Security Act, as defined by the federal Social Security
2 Administration;

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

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

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

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

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

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

33 (i) Pregnant women;

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

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

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

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

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

46 (ii) For households of three or more persons, the income
47 standard shall be set at 133 1/3【%】 percent of the State's payment
48 level to similar size households under the aid to families with

1 dependent children program under the State Plan for Title IV-A of
2 the federal Social Security Act in effect as of July 16, 1996.

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

5 (i) For one person households, the resource standard shall be
6 200【%】 percent of the resource standard for recipients of
7 Supplemental Security Income pursuant to 42 U.S.C. s.1382(1)(B);

8 (ii) For two 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(2)(B);

11 (iii) For households of three or more persons, the resource
12 standard in subparagraph (c)(ii) above shall be increased by
13 \$100.00 for each additional person; and

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

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

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

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

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

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

44 The division shall notify all eligible recipients of the
45 Pharmaceutical Assistance to the Aged and Disabled program,
46 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the
47 medically needy program and the program's general requirements.
48 The division shall take all reasonable administrative actions to

- 1 ensure that Pharmaceutical Assistance to the Aged and Disabled
2 recipients, who notify the division that they may be eligible for the
3 program, have their applications processed expeditiously, at times
4 and locations convenient to the recipients; and
- 5 (iii) The division is responsible for certifying incurred medical
6 expenses for all eligible persons who attempt to qualify for the
7 program pursuant to subparagraph (d) of paragraph (8) of this
8 subsection;
- 9 (9) (a) Is a child who is at least one year of age and under 19
10 years of age and, if older than six years of age but under 19 years of
11 age, is uninsured; and
- 12 (b) Is a member of a family whose income does not exceed
13 133【%】 percent of the poverty level and who meets the federal
14 Medicaid eligibility requirements set forth in section 9401 of
15 Pub.L.99-509 (42 U.S.C. s.1396a);
- 16 (10) Is a pregnant woman who is determined by a provider to be
17 presumptively eligible for medical assistance based on criteria
18 established by the commissioner, pursuant to section 9407 of
19 Pub.L.99-509 (42 U.S.C. s.1396a(a));
- 20 (11) Is an individual 65 years of age and older, or an individual
21 who is blind or disabled pursuant to section 301 of Pub.L.92-603
22 (42 U.S.C. s.1382c), whose income does not exceed 100【%】
23 percent of the poverty level, adjusted for family size, and whose
24 resources do not exceed 100【%】 percent of the resource standard
25 used to determine medically needy eligibility pursuant to paragraph
26 (8) of this subsection;
- 27 (12) Is a qualified disabled and working individual pursuant to
28 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
29 does not exceed 200【%】 percent of the poverty level and whose
30 resources do not exceed 200【%】 percent of the resource standard
31 used to determine eligibility under the Supplemental Security
32 Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);
- 33 (13) Is a pregnant woman or is a child who is under one year of
34 age and is a member of a family whose income does not exceed
35 185【%】 percent of the poverty level, or is a pregnant woman who is
36 a member of a family whose income does not exceed the highest
37 income eligibility level for pregnant women established under the
38 State plan under Title XIX of the federal Social Security Act, and
39 who meets the federal Medicaid eligibility requirements set forth in
40 section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a), except that a
41 pregnant woman who is determined to be a qualified applicant shall,
42 notwithstanding any change in the income of the family of which
43 she is a member, continue to be deemed a qualified applicant until
44 the end of the 【60-day】 180-day period beginning on the last day of
45 her pregnancy;
- 46 (14) (Deleted by amendment, P.L.1997, c.272).

1 (15) (a) Is a specified low-income Medicare beneficiary pursuant
2 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January
3 1, 1993 do not exceed 200【%】 percent of the resource standard
4 used to determine eligibility under the Supplemental Security
5 Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose
6 income beginning January 1, 1993 does not exceed 110【%】 percent
7 of the poverty level, and beginning January 1, 1995 does not exceed
8 120【%】 percent of the poverty level.

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

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

1 individual would otherwise be eligible for Medicaid coverage for
2 nursing facility services or home or community-based services.

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

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

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

17 (b) if a parent or specified caretaker relative, beginning
18 September 1, 2005 does not exceed 100【%】 percent of the poverty
19 level, beginning September 1, 2006 does not exceed 115【%】
20 percent of the poverty level and beginning September 1, 2007 does
21 not exceed 133【%】 percent of the poverty level,

22 plus such earned income disregards as shall be determined
23 according to a methodology to be established by regulation of the
24 commissioner;

25 The commissioner may increase the income eligibility limits for
26 children and parents and specified caretaker relatives, as funding
27 permits;

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

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

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

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

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

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

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

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

7 n. "Governmental peer grouping system" means a separate
8 class of skilled nursing and intermediate care facilities administered
9 by the State or county governments, established for the purpose of
10 screening their reported costs and setting reimbursement rates under
11 the Medicaid program that are reasonable and adequate to meet the
12 costs that must be incurred by efficiently and economically operated
13 State or 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
19 (C.30:4D-6).

20 p. "Poverty level" means the official poverty level based on
21 family size established and adjusted under Section 673(2) of
22 Subtitle B, the "Community Services Block Grant Act," of
23 Pub.L.97-35 (42 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,
26 1996, 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
31 "Immigration and Nationality Act" (8 U.S.C. s.1158);

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

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

39 (f) an alien granted conditional entry pursuant to section
40 203(a)(7) of the federal "Immigration and Nationality Act" (8
41 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
43 in the United States armed forces and the alien's spouse and
44 unmarried dependent child.

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

47 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of
48 this 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
5 as provided in Title V of the federal "Illegal Immigration Reform
6 and 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 for such
10 State plan amendments or waivers as may be necessary to
11 implement the provisions of this act and to secure federal financial
12 participation for State Medicaid expenditures under the federal
13 Medicaid program.

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

19
20 4. This act shall take effect on the first day of the fourth month
21 next following the date of enactment, but the Commissioner of
22 Human Services may take such anticipatory administrative action in
23 advance thereof as may be necessary for the implementation of this
24 act.

25 26 27 STATEMENT

28
29 This bill amends the law to extend the length of time of postpartum
30 comprehensive Medicaid coverage for eligible pregnant women to a
31 180-day period, beginning on the last day of pregnancy. In doing so,
32 this bill codifies budget language adopted in the FY 2020
33 Appropriations Act. Under current State law, comprehensive
34 Medicaid coverage for this population is provided for a 60-day period,
35 beginning on the last day of the pregnancy. This 60-day period
36 complies with federal regulations regarding the minimum time length
37 for postpartum Medicaid coverage.

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