

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL DRS35241-MRa-43C

Short Title: Increase Access to Medicaid HCWD Program. (Public)

Sponsors: Senators Grafstein and Moffitt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REMOVE THE UNEARNED INCOME LIMIT AND ALL RESOURCE LIMITS  
3 FROM THE HEALTH COVERAGE FOR WORKERS WITH DISABILITIES ACT  
4 UNDER THE MEDICAID PROGRAM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** No later than 90 days after this act becomes law, the Department of  
7 Health and Human Services, Division of Health Benefits, shall submit the necessary  
8 documentation to the Centers for Medicare and Medicaid Services (CMS) for approval to remove  
9 the unearned income limit from the Health Coverage for Workers With Disabilities Medicaid  
10 eligibility category requirements. Upon approval by CMS of the removal of the unearned income  
11 limits, the Secretary of the Department of Health and Human Services shall notify the Revisor of  
12 Statutes of the effective date approved by CMS for the removal.

13 **SECTION 2.(a)** G.S. 108A-66.1 reads as rewritten:

14 "**§ 108A-66.1. Medicaid buy-in for workers with disabilities.**

15 (a) Title. – This section may be cited as the Health Coverage for Workers With  
16 Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as  
17 permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999.  
18 The Department shall establish rules, policies, and procedures to implement this act in  
19 accordance with this section.

20 ...

21 (c) Eligibility. – An individual is eligible for HCWD ~~if~~ if all of the following apply:

- 22 (1) The individual is at least 16 years of age and is less than 65 years of ~~age~~ age.  
23 (2) The individual either meets Social Security Disability ~~criteria~~ criteria or the  
24 individual has been enrolled in HCWD and then becomes medically ~~improved~~  
25 improved, as defined in Ticket to Work and as further specified by the  
26 Department. An individual shall be determined to be eligible under this  
27 section without regard to the individual's ability to engage in, or actual  
28 engagement in, substantial gainful activity as defined in section 223 of the  
29 Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual  
30 redetermination of eligibility, the Department may not determine that an  
31 individual participating in HCWD is no longer disabled based solely on the  
32 individual's participation in employment or earned ~~income~~ income.  
33 (3) ~~The individual's unearned income does not exceed one hundred fifty percent~~  
34 ~~(150%) of FPG, and countable resources for the individual do not exceed the~~  
35 ~~resource limit for the minimum community spouse resource standard under~~  
36 ~~42 U.S.C. § 1396r, and as further determined by the Department. In~~



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determining an individual's countable income and resources, the Department may not consider income or resources that are disregarded under the State Medical Assistance Plan's financial methodology, including the sixty five dollar (\$65.00) disregard, impairment related work expenses, student earned income exclusions, and other SSI program work incentive income disregards; and

(4) The individual is engaged in a substantial and reasonable work effort (employed) effort, as provided in this subdivision and subdivision, as further defined by the Department-Department, and as allowable under federal law. For purposes of this subsection, "engaged in substantial and reasonable work effort" means all of the following:

- a. Working in a competitive, inclusive work setting, or self-employed.
- b. Earning at least the applicable minimum wage.
- c. Having monthly earnings above the SSI basic sixty-five-dollar (\$65.00) earned-income disregard.
- d. Being able to provide evidence of paying applicable Medicare, Social Security, and State and federal income taxes.

The Department may impose additional earnings requirements in defining "engaged in substantial and reasonable work effort" for individuals who are eligible for HCWD based on medical improvement.

(c1) Income and Resources. – In determining an individual's countable income for the purposes of HCWD, the Department may not consider income that is disregarded under the Medicaid State Plan's financial methodology, including the sixty-five-dollar (\$65.00) disregard, impairment-related work expenses, student earned-income exclusions, and other SSI program work incentive income disregards. There shall be no unearned income limitations or resource limitations.

(c2) Involuntary Unemployment. – Individuals who participate in HCWD but thereafter become unemployed for involuntary reasons, including health reasons, shall have continued eligibility in HCWD for up to 12 months from the time of involuntary unemployment, so long as the individual (i) maintains a connection with the workforce, as determined by the Department, (ii) meets all other eligibility criteria for HCWD during the period, and (iii) pays applicable fees, premiums, and co-payments.

...."

**SECTION 2.(b)** This section is effective on the date approved by the Centers for Medicare and Medicaid Services for the removal of the unearned income limit and resource limitations for Health Coverage for Workers With Disabilities program eligibility, as required by Section 1 of this act.

**SECTION 3.** Effective July 1, 2023, there is appropriated from the General Fund to the Department of Health and Human Services, Division of Health Benefits, the sum of one hundred fifty-three thousand dollars (\$153,000) in recurring funds for each year of the 2023-2025 fiscal biennium. These funds shall provide a State match for two hundred ninety-six thousand dollars (\$296,000) in recurring federal funds for each year of the 2023-2025 fiscal biennium, and those federal funds are appropriated to the Division of Health Benefits.

**SECTION 4.** Except as otherwise provided, this act is effective when it becomes law.