

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 22, 2025

The Honorable Brandon Ler
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Matt Regier
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Ler and President Regier:

We agree that Montanans should have timely access to affordable, quality health care services. While my administration remains committed to ensuring eligible Montanans receive vital health care services through Medicaid, we must also be fiscally responsible with taxpayers' hard-earned money and protect the integrity of the program.

Senate Bill 72 proposes to establish a presumptive eligibility process for certain home and community-based services (HCBS) provided under Montana's Big Sky Waiver and through the Community First Choice program for seniors and individuals with physical disabilities. Presumptive eligibility allows an individual to receive services through Medicaid while their full Medicaid application is processed.

There are at least several issues with expanding presumptive eligibility with little to no safeguards, as Senate Bill 72 does. First, the presumptive eligibility application requires an applicant to simply self-attest to his or her income and residency, exposing the system to fraud. An individual may receive Medicaid benefits while his or her application is under review, allowing ineligible individuals to receive benefits. This puts taxpayers on the hook for payments to providers for health care services already rendered to ineligible individuals. In fact, researchers estimate that Medicaid issued nearly \$1.1 trillion in improper payments between

2015 and 2024.¹ The Centers for Medicare and Medicaid Services reported that eligibility errors accounted for nearly 75 percent of improper payments in 2021.²

Second, Senate Bill 72 opens the floodgates as to what entities may approve presumptive eligibility. Section 2202 of the Affordable Care Act currently allows hospitals to make presumptive eligibility determinations for individuals. Data from state health agencies, however, reveal that 70 percent of individuals, whom hospitals deemed qualified for presumptive eligibility, either were ineligible for Medicaid benefits or did not even complete an application.³

Senate Bill 72 expands this authority beyond hospitals, allowing the following to make presumptive eligibility determinations: “an area agency on aging or its designated subcontractor; a tribal entity; a hospital or hospital-affiliated facility; or another entity deemed appropriate by the department or the division of the department that administers long-term care services for senior citizens and individuals with physical disabilities.”

Senate Bill 72 lacks the safeguards necessary to ensure that the additional entities authorized to conduct these determinations are not inaccurately providing taxpayer-funded benefits to individuals who do not qualify. While Montana currently offers limited presumptive eligibility for some groups seeking Medicaid coverage, Senate Bill 72 may be just the first step in expanding presumptive eligibility to all groups and all covered services in the future, even when a provider may have a conflict of interest in determining someone presumptively eligible. This slippery slope is something the state simply cannot afford. Further expanding the types of entities that conduct presumptive eligibility determinations without fully understanding their capabilities and the financial implications of doing so is a serious risk.

The regular Medicaid application process is designed to ensure that applicants approved for Medicaid coverage are truly eligible for taxpayer-funded benefits, unlike presumptive eligibility, which largely relies on client self-attestation and an expectation that trained entities conducting presumptive eligibility determinations are operating with high integrity and fidelity. In recent years, the Department of Public Health and Human Services has improved its response time to those who contact the public assistance helpline, with an overall improvement in the time it takes

¹ Brian Blase, Ph.D., and Rachel Greszler, “Medicaid’s True Improper Payments Double Those Reported by CMS,” Economic Policy Innovation Center, March 3, 2025, https://epicforamerica.org/wp-content/uploads/2025/02/Medicoids_True_Improper_Payments_FOR-RELEASE_V3.pdf

² “2021 Medicaid & CHIP Supplemental Improper Payment Data,” Centers of Medicare and Medicaid Services, November 2021, <https://www.cms.gov/files/document/2021-medicoid-chip-supplemental-improper-payment-data.pdf-1>.

³ Sam Adolphsen and Jonathan Bain, “How Hospital Presumptive Eligibility Pours Gasoline on the Fire of Medicaid Waste, Fraud, and Abuse,” The Foundation for Government Accountability, September 21, 2020, <https://thefga.org/wp-content/uploads/2020/09/How-Hospital-Presumptive-Eligibility-Pours-Gasoline-Medicaid-Fraud.pdf>.

to process an application.

Third, Senate Bill 72 requires costly systems and other premature changes without a corresponding benefit for Montanans. Although presumptive eligibility could accelerate access to HCBS by up to 60 days, this modest time savings doesn't justify the substantial system changes and associated administrative costs required for implementation. While individuals could access Community First Choice services sooner, those applying for Big Sky Waiver services would only be added to the waitlist more quickly.

Finally, as to its fiscal impact, Senate Bill 72 has a total price tag of about \$6.5 million over the next four years, using both state and federal taxpayer resources. Our Montana Constitution requires us to balance our budget. In 2021 and 2023, I am proud that we worked together to deliver balanced budgets that were not only fiscally responsible, but also allowed us to seize the opportunity to let hardworking Montanans keep more of what they earn. The budget proposal I sent to the Legislature for the 2025 Legislative Session was fiscally conservative, keeping spending below inflation.

The budget and other bills with hefty price tags that the Legislature passed, however, are not fiscally responsible. Therefore, I will keenly review the budget and spending bills the Legislature passed, making some difficult decisions to protect taxpayers and their hard-earned resources. Hardworking Montanans expect us to be fiscally responsible.

In closing, Senate Bill 72 establishes a new presumptive eligibility process for HCBS, duplicating well established eligibility pathways and placing unnecessary strain on limited Medicaid resources. The bill also creates unnecessary, high-risk precedent for further expanding presumptive eligibility, circumventing true eligibility processes for public assistance programs. Senate Bill 72's projected fiscal impact and the concerns outlined outweigh its benefits.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 72: "AN ACT PROVIDING FOR PRESUMPTIVE ELIGIBILITY UNDER THE MONTANA MEDICAID PROGRAM FOR CERTAIN HOME AND COMMUNITY-BASED SERVICES FOR PERSONS WITH PHYSICAL DISABILITIES AND PERSONS WHO ARE ELDERLY; PROVIDING A SCREENING PROCESS FOR PRESUMPTIVE ELIGIBILITY; STATING TERMS OF PRESUMPTIVE ELIGIBILITY; PROVIDING DIRECTIONS TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND PROVIDING EFFECTIVE DATES."

Sincerely,



Greg Gianforte
Governor

Speaker Ler and President Regier
May 22, 2025
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Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State