

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE EDWARDS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE: Amends administrative rules to cause La. Medicaid eligibility standards to conform to those established in the Affordable Care Act

1 A CONCURRENT RESOLUTION

2 To amend the Department of Health and Hospitals rule (LAC 50:III.501) which provides
3 relative to medical assistance program (Medicaid) eligibility, and to direct the office
4 of the state register to print the amendments in the Louisiana Administrative Code.

5 WHEREAS, the federal legislation known as the "Affordable Care Act" or "ACA"
6 was enacted in March of 2010 through Public Law Nos. 111-148 and 111-152; and

7 WHEREAS, major features of this landmark reform in our nation's health policy
8 which began to benefit Americans immediately upon enactment of the ACA are essential
9 rights and protections for healthcare consumers and new accountability measures for
10 insurance companies; and

11 WHEREAS, other major features of the ACA such as expansion of the Medicaid
12 program and creation of state and federal health insurance exchanges have been
13 implemented over a longer period, and with some challenges; and

14 WHEREAS, it is not unusual that challenges in the implementation of the ACA arose
15 considering that the overall scope of the law is greater than that of the last fundamental
16 reform our nation made to its healthcare system, that being the establishment of Medicare
17 and Medicaid in the 1960s; and

18 WHEREAS, contrasted with the rollout of the federal health insurance exchange, the
19 problems with which were technical in nature, the challenges surrounding Medicaid
20 expansion are entirely political; and

1 WHEREAS, the 2012 United States Supreme Court decision upholding the ACA's
2 constitutionality rendered the expansion of Medicaid eligibility provided in the ACA as
3 optional for each state, sparking a bitter partisan divide over the Medicaid expansion
4 question across our nation that history will show as a regrettable disservice to the American
5 people; and

6 WHEREAS, the ACA provides that Medicaid benefits for households who become
7 eligible due to the expansion are financed entirely with federal funds for the first three years
8 of the expansion (2014 through 2016), and that the federal share of funding for benefits to
9 these newly eligible enrollees will phase down from one hundred percent to ninety percent
10 between 2017 and 2020, with the federal share remaining at ninety percent in ensuing years;
11 and

12 WHEREAS, in Louisiana, the most reliable nonpartisan fiscal analysis conducted to
13 date on Medicaid expansion proposals before the legislature have been issued by the
14 Legislative Fiscal Office, which estimated that had Louisiana implemented the expansion
15 beginning January 1, 2014, the State General Fund savings to result from the expansion
16 would have been one hundred six million to one hundred eleven million dollars per year
17 from 2014 through 2018, totaling five hundred thirty-two million to five hundred fifty-four
18 million dollars in savings for the period, due to the sizeable share of federal funds that would
19 have been committed to this state's Medicaid program; and

20 WHEREAS, from the beginning of 2014 to the date of filing of this Resolution, the
21 number of states expanding Medicaid eligibility has grown from twenty-two to twenty-eight;
22 and

23 WHEREAS, the number of states that have accepted Medicaid expansion could soon
24 rise to thirty-four or more, as governors of six states submitted to their respective legislatures
25 plans to expand their states' Medicaid programs in the weeks following the November, 2014
26 elections, showing a diminishing regard for the once-dramatic political trappings of the
27 ACA; and

28 WHEREAS, the federal government has demonstrated flexibility in administering
29 the expansion of Medicaid by meeting several states on their own terms and approving

1 applications to implement the expansion through state programs that provide premium
2 assistance to persons who purchase insurance policies from private insurers, rather than have
3 the state Medicaid program itself function as the insurer; and

4 WHEREAS, expansion of health coverage through Medicaid has overwhelmingly
5 benefitted both patients and healthcare providers in states that have accepted the expansion,
6 and there is now irrefutable evidence that health systems in those states are more financially
7 stable and functioning better than their counterparts in non-expansion states; and

8 WHEREAS, in states such as Louisiana that have refused the expansion to date,
9 working people with incomes above the Medicaid eligibility limit but below the poverty line
10 have neither Medicaid nor the opportunity to obtain subsidized coverage through the health
11 insurance marketplace created by the ACA, as the law provides subsidies for persons with
12 household income at or above one hundred percent of the federal poverty level to buy private
13 insurance; and

14 WHEREAS, approximately two hundred fifty thousand Louisiana adults who
15 currently lack health insurance would become eligible for Medicaid if this state accepted the
16 expansion; and

17 WHEREAS, as long as this state refuses the expansion and a quarter of a million of
18 her low- to moderate-income citizens continue to go without any form of health insurance
19 coverage, these citizens will face significant tax penalties provided for in the ACA due
20 solely to their being uninsured, as will their employers, and they will have no practical
21 options for medical treatment besides hospital emergency departments, where costs to the
22 public of care for the uninsured are highest; and

23 WHEREAS, similar to the glaring health disparities that will persist or worsen in
24 Louisiana as a result of leaving such a large segment of the state's population without access
25 to affordable care, the harm to our state's healthcare providers resulting from a continuing
26 refusal to expand Medicaid is also difficult to overstate, as the expansion is being financed,
27 in part, by a steep reduction in the types of federal funding that heretofore have subsidized
28 the care and treatment that providers furnish to the uninsured; and

1 1. meet all applicable criteria for income eligibility and mandatory coverage
2 for individuals age 19 through 64 as provided in federal regulations relative to
3 medical assistance program eligibility and coverage (42 CFR Part 435); and

4 2. meet all other eligibility criteria as the bureau determines to be applicable.

5 B. The bureau requires an applicant to complete and sign a written
6 application in order to initiate the eligibility determination process for Medicaid
7 benefits. The applicant's signature on the application affirms that all of the
8 information contained on the form is true and correct or the applicant could be
9 subject to a penalty for perjury. In order to facilitate the application process, the
10 Bureau authorizes the electronic filing of Medicaid applications. Applications may
11 be signed by the following means:

12 1. the applicant's signature on a paper application;
13 2. a personal identification number (PIN); or a digital signature as issued by
14 DHH (in the Louisiana Medicaid Manual).

15 ~~B.~~ C. The application may be filed by the applicant or one of the following
16 individuals:

17 1. a parent;
18 2. the legal guardian, which is a person legally responsible for the care and
19 management of the person or property of one considered by law to be incompetent
20 to manage his own affairs;
21 3. a curator, which is any person acting under legal authority for an
22 applicant/recipient who is determined by a court of law to be incompetent to take
23 care of his own person or to administer his estate (an interdict); or
24 4. someone acting responsibly for the applicant.

25 ~~C.~~ D. Assistance with Application

26 1. The applicant may choose an individual to accompany, assist, and/or
27 represent him/her in the application or renewal process.

28 2. The bureau must provide assistance if the applicant is unable to participate
29 and has no responsible representation in the application process.

1 ~~D.~~ E. Grounds for Accepting/Rejecting Application. The applicant must
2 cooperate in the process of determining eligibility by completing an application form
3 and providing required information. The application may be rejected for
4 non-cooperation only if the applicant, curator, parent or legal guardian is physically
5 and mentally able to make application and provide information and either:

- 6 1. does not provide information after being notified; or
- 7 2. after being advised of the consequences, has failed to cooperate.

8 BE IT FURTHER RESOLVED that the secretary of the Department of Health and
9 Hospitals may implement the expansion of the Louisiana Medicaid program provided for
10 in this Resolution in a manner that is the same as or substantially similar to any state
11 expansion program heretofore approved by the Centers for Medicare and Medicaid Services
12 which allows newly eligible Medicaid beneficiaries to acquire insurance policies from
13 private insurers.

14 BE IT FURTHER RESOLVED that the secretary of the Department of Health and
15 Hospitals is hereby authorized and directed to submit to the Centers for Medicare and
16 Medicaid Services on or before September 1, 2015, any Medicaid state plan amendments
17 and demonstration waiver applications as may be necessary to implement the provisions of
18 this Resolution.

19 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
20 office of the state register and to the secretary of the Department of Health and Hospitals.

21 BE IT FURTHER RESOLVED that the office of the state register is hereby directed
22 to have the amendments to LAC 50:III.501 printed and incorporated into the Louisiana
23 Administrative Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 3 Original

2015 Regular Session

Edwards

Amends the Medicaid eligibility rules of DHH to cause La. Medicaid eligibility standards to expand in conformance with the provisions of the Affordable Care Act (ACA) beginning on the later of the following dates:

- (1) 30 days after federal approval of the La. state plan amendment for Medicaid expansion.
- (2) Jan. 1, 2016.

Authorizes the secretary of DHH to implement Medicaid expansion in the same or a substantially similar manner as provided in any state expansion program heretofore approved by the federal Medicaid agency allowing newly eligible beneficiaries to acquire private insurance.

Authorizes and directs the secretary of DHH to submit to the federal Medicaid agency on or before Sept. 1, 2015, any state plan amendments and demonstration waiver applications as may be necessary to implement Medicaid expansion.

(Amends LAC 50:III.501)