

STATE OF NEW YORK

8228--A

IN SENATE

February 3, 2022

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to expanding eligibility for the medicare savings program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 367-a of the social services law,
2 as amended by chapter 558 of the laws of 1989, paragraph (a) as amended
3 by chapter 81 of the laws of 1995, subparagraph 1 of paragraph (b) as
4 designated and subparagraph 2 as added by section 41 of part C of chap-
5 ter 58 of the laws of 2008, paragraph (c) as added by chapter 651 of the
6 laws of 1990, paragraph (d) as amended by section 27 of part B of chap-
7 ter 109 of the laws of 2010, paragraph (e) as added by section 16 of
8 part D of chapter 56 of the laws of 2013, subparagraph 2 of paragraph
9 (e) as amended by section 52 of part C of chapter 60 of the laws of
10 2014, is amended to read as follows:

11 3. (a) As used in this subdivision, the following terms shall have the
12 following meanings:

13 (1) "Qualified medicare beneficiary" means a person who is entitled to
14 hospital insurance benefits under part A of title XVIII of the federal
15 social security act, whose income does not exceed one hundred percent of
16 the official federal poverty line applicable to the person's family size
17 and whose resources do not exceed twice the maximum amount of resources
18 a person may have in order to qualify for benefits under the federal
19 supplemental security income program of title XVI of the federal social
20 security act, as determined for purposes of such program. To the
21 extent that federal financial participation is available, a person
22 whose resources are in excess of the amount specified in this
23 subparagraph but otherwise meets the requirements shall be
24 considered a "qualified medicare beneficiary".

25 (2) "Specified low income medicare beneficiary" means a person who
26 would be a qualified medicare beneficiary except that person's income

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 exceeds one hundred percent of the federal income poverty line applica-
2 ble to the person's family size, but is less than one hundred twenty
3 percent of such poverty line.

4 (3) "Qualified individual" means a person who is entitled to hospital
5 insurance benefits under part A of title XVIII of the federal social
6 security act and whose income exceeds the income level established by
7 the state and is at least one hundred twenty percent, but less than one
8 hundred thirty-five percent, of the federal poverty level, for a family
9 of the size involved and who is not otherwise eligible for medical
10 assistance under this article; referred to as a qualified individual.

11 (4) "Qualified disabled and working individual" means an individ-
12 ual who is not otherwise eligible for medical assistance and:

13 (i) who is entitled to enroll for hospital insurance benefits under
14 section 1818A of part A of title XVIII of the federal social security
15 act;

16 (ii) whose income does not exceed two hundred percent of the official
17 federal poverty line applicable to the person's family size; and

18 (iii) whose resources do not exceed twice the maximum amount of
19 resources that an individual or a couple, in the case of a married
20 individual, may have and obtain federal supplemental security income
21 benefits under title XVI of the federal social security act, as
22 determined for purposes of that program.

23 For purposes of this subparagraph, income and resources are
24 determined by the same methodology as is used for determining
25 eligibility under the federal supplemental security income benefits
26 under title XVI of the federal social security act.

27 (b) Payment of premiums for enrolling qualified disabled and working
28 individuals and qualified medicare beneficiaries under Part A of title
29 XVIII of the federal social security act and for enrolling such benefi-
30 ciaries and eligible recipients of public assistance under part B of
31 title XVIII of the federal social security act, together with the costs
32 of the applicable co-insurance and deductible amounts on behalf of such
33 beneficiaries, and recipients, and premiums under section 1839 of the
34 federal social security act for ~~persons who would be qualified medicare~~
35 ~~beneficiaries except that their incomes exceed one hundred percent of~~
36 ~~the federal income poverty line applicable to the person's family size~~
37 ~~but, in calendar years nineteen hundred ninety three and nineteen~~
38 ~~hundred ninety four, is less than one hundred ten percent of such pover-~~
39 ~~ty line and, in calendar year beginning in nineteen hundred ninety-five,~~
40 ~~is less than one hundred twenty percent of such poverty line]~~ specified
41 low income medicare beneficiaries shall be made and the cost thereof
42 borne by the state or by the state and social services districts,
43 respectively, in accordance with the regulations of the department,
44 provided, however, that the share of the cost to be borne by a social
45 services district, if any, shall in no event exceed the proportionate
46 share borne by such district with respect to other expenditures under
47 this title. Moreover, if the director of the budget approves, payment
48 of premiums for enrolling persons who have been determined to be eligi-
49 ble for medical assistance only may be made and the cost thereof borne
50 or shared pursuant to this subdivision.

51 ~~[(b) (1) For purposes of this subdivision, "qualified medicare benefi-~~
52 ~~ciaries" are those persons who are entitled to hospital insurance bene-~~
53 ~~fits under part A of title XVIII of the federal social security act,~~
54 ~~whose income does not exceed one hundred percent of the official federal~~
55 ~~poverty line applicable to the person's family size and whose resources~~
56 ~~do not exceed twice the maximum amount of resources a person may have in~~

~~order to qualify for benefits under the federal supplemental security income program of title XVI of the federal social security act, as determined for purposes of such program.~~

~~(2) Notwithstanding any provision of subparagraph one of this paragraph to the contrary, to the extent that federal financial participation is available, a person whose resources are in excess of the amount specified but otherwise meets the requirements of subparagraph one of this paragraph shall be considered a "qualified medicare beneficiary" for the purposes of this subdivision. The commissioner is authorized to submit amendments to the state plan for medical assistance and/or submit one or more applications for waivers of the federal social security act, to obtain the federal approvals necessary to implement this subparagraph.~~

~~(c) (1) For purposes of this subdivision, "qualified disabled and working individuals" are individuals who are not otherwise eligible for medical assistance and:~~

~~(i) who are entitled to enroll for hospital insurance benefits under section 1818A of part A of title XVIII of the federal social security act,~~

~~(ii) whose income does not exceed two hundred percent of the official federal poverty line applicable to the person's family size, and~~

~~(iii) whose resources do not exceed twice the maximum amount of resources that an individual or a couple, in the case of a married individual, may have and obtain federal supplemental security income benefits under title XVI of the federal social security act, as determined for purposes of that program.~~

~~(2) For purposes of this paragraph, income and resources are determined by the same methodology as is used for determining eligibility under the federal supplemental security income benefits under title XVI of the federal social security act.~~

~~(d)] (c) (1) Beginning April first, two thousand two and to the extent that federal financial participation is available at a one hundred percent federal Medical assistance percentage and subject to sections 1933 and 1902(a)(10)(E)(iv) of the federal social security act, medical assistance shall be available for full payment of medicare part B premiums for qualified individuals [~~(referred to as qualified individuals 1) who are entitled to hospital insurance benefits under part A of title XVIII of the federal social security act and whose income exceeds the income level established by the state and is at least one hundred twenty percent, but less than one hundred thirty-five percent, of the federal poverty level, for a family of the size involved and who are not otherwise eligible for medical assistance under the state plan,~~].~~

(2) Premium payments for the individuals described in subparagraph one of this paragraph will be one hundred percent federally funded up to the amount of the federal allotment. The department shall discontinue enrollment into the program when the part B premium payments made pursuant to subparagraph one of this paragraph meet the yearly federal allotment.

~~[(3) The commissioner of health shall develop a simplified application form, consistent with federal law, for payments pursuant to this section. The commissioner of health, in cooperation with the office for the aging, shall publicize the availability of such payments to medicare beneficiaries.]~~

(d) Commencing April first, two thousand twenty-two, and subject to federal approval, which the commissioner shall seek, the following shall apply:

1 (1) For qualified medicare beneficiaries all countable income over one
2 hundred percent of the federal poverty level, up to one hundred twenty
3 percent of the federal poverty level, shall be disregarded, after taking
4 all other disregards, deductions, and exclusions under federal and state
5 law into account for those persons eligible pursuant to this section.

6 (2) For specified low income medicare beneficiaries all countable
7 income over one hundred twenty percent of the federal poverty level, up
8 to one hundred thirty-eight percent of the federal poverty level, shall
9 be disregarded, after taking all other disregards, deductions, and
10 exclusions under federal and state law into account for those persons
11 eligible pursuant to this section.

12 (3) For qualifying individuals all countable income over one hundred
13 thirty-eight percent of the federal poverty level, up to one hundred
14 fifty-six percent of the federal poverty level, shall be disregarded,
15 after taking all other disregards, deductions, and exclusions under
16 federal and state law into account for those persons eligible pursuant
17 to this section.

18 (e) (1) Payment of premiums for enrolling individuals in qualified
19 health plans offered through a health insurance exchange established
20 pursuant to the federal Patient Protection and Affordable Care Act (P.L.
21 111-148), as amended by the federal Health Care and Education Reconcil-
22 iation Act of 2010 (P.L. 111-152), shall be available to individuals
23 who:

24 (i) immediately prior to being enrolled in the qualified health plan,
25 were or would have been eligible under the family health plus program as
26 a parent or stepparent of a child under the age of twenty-one, and whose
27 MAGI household income, as defined in subparagraph eight of paragraph (a)
28 of subdivision one of section three hundred sixty-six of this title,
29 exceeds one hundred thirty-three percent of the federal poverty line for
30 the applicable family size;

31 (ii) are not otherwise eligible for medical assistance under this
32 title; and

33 (iii) are enrolled in a standard health plan in the silver level, as
34 defined in 42 U.S.C. 18022.

35 (2) Payment pursuant to this paragraph shall be for premium obli-
36 gations of the individual under the qualified health plan and shall
37 continue only if and for so long as the individual's MAGI household
38 income exceeds one hundred thirty-three percent, but does not exceed one
39 hundred fifty percent, of the federal poverty line for the applicable
40 family size, or, if earlier, until the individual is eligible for
41 enrollment in a standard health plan pursuant to section three hundred
42 sixty-nine-gg of this article.

43 (3) The commissioner of health shall submit amendments to the state
44 plan for medical assistance and/or submit one or more applications for
45 waivers of the federal social security act as may be necessary to
46 receive federal financial participation in the costs of payments made
47 pursuant to this paragraph; provided further, however, that nothing in
48 this subparagraph shall be deemed to affect payments for premiums pursu-
49 ant to this paragraph if federal financial participation in the costs of
50 such payments is not available.

51 § 2. This act shall take effect on the thirtieth day after it shall
52 have become a law. Effective immediately, the addition, amendment and/or
53 repeal of any rule or regulation necessary for the implementation of
54 this act on its effective date are authorized to be made and completed
55 on or before such effective date.