

**CHAPTER 50-29**  
**CHILDREN'S HEALTH INSURANCE PROGRAM**

**50-29-01. Definitions. (Effective through December 31, 2019)**

As used in this chapter:

1. "Children's health insurance program" means a program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].
2. "County agency" means the county social service board.
3. "Department" means the department of human services.
4. "Plan" means the children's health insurance program state plan.
5. "Poverty line" means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2), applicable to a family of the size involved.

**Definitions. (Effective after December 31, 2019)** As used in this chapter:

1. "Children eligible for medical assistance" means the population eligible for Medicaid before the expansion of medical assistance as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152].
2. "Children's health insurance program" means a program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].
3. "Department" means the department of human services.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
5. "Plan" means the children's health insurance program state plan.
6. "Poverty line" means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with section 9902(2) of title 42 of the United States Code, applicable to a family of the size involved.

**50-29-02. Duties of the department. (Effective through December 31, 2019)**

1. The department shall prepare, submit, and implement the plan that includes determinations of eligibility, based on modified adjusted gross income methodologies as required in 42 U.S.C. 1396a(e)(14);
2. Supervise the administration of the children's health insurance program throughout this state;
3. Take action, give directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter;
4. After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;
5. Report annually to the legislative council and describe enrollment statistics and costs associated with the plan;
6. Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and
7. Administer all funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.

**Duties of the department. (Effective after December 31, 2019)**

1. The department shall:
  - a. Prepare, submit, and implement the plan that includes determinations of eligibility, based on modified adjusted gross income methodologies as required in section 1396a(e)(14) of the United States Code;
  - b. Supervise the administration of the children's health insurance program;

- c. Adopt rules and regulations as necessary to qualify for any federal funds available under this chapter;
  - d. Report to the legislative management, as requested, regarding enrollment statistics, program costs, and any operational updates; and
  - e. Administer funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.
2. Within the limits of legislative appropriation, the department may submit state plans and may seek appropriate waivers of the requirements of the federal statutes or regulations as authorized by federal law.

**50-29-03. Duties of county agency. (Effective through December 31, 2019)**

In the administration of the plan, unless the department otherwise establishes eligibility, the county agency shall:

1. Administer the plan under the direction and supervision of the department; and
2. Make an investigation and record the circumstances of each applicant, obtaining information as may be required by the department.

**Duties of human service zone (Effective after December 31, 2019)** In the administration of the plan, the human service zone shall investigate and record the circumstances of each applicant or recipient of assistance, in order to ascertain the facts supporting the application, or the granting of assistance, and obtain such other information as may be required by the rules and regulations of the department.

**50-29-04. Plan requirements. (Effective through December 31, 2019)**

The plan:

1. Must be provided through private contracts with insurance carriers;
2. Must allow conversion to another health insurance policy;
3. Must be based on an actuarial equivalent of a benchmark plan;
4. Must incorporate every state-required waiver approved by the federal government;
5. Must include community-based eligibility outreach services; and
6. Must provide:
  - a. A gross income eligibility limit based on a net income eligibility equivalent of one hundred sixty percent of the poverty line;
  - b. A copayment requirement for each pharmaceutical prescription and for each emergency room visit;
  - c. A deductible for each inpatient hospital visit;
  - d. Coverage for:
    - (1) Inpatient hospital, medical, and surgical services;
    - (2) Outpatient hospital and medical services;
    - (3) Psychiatric and substance abuse services;
    - (4) Prescription medications;
    - (5) Preventive screening services;
    - (6) Preventive dental and vision services; and
    - (7) Prenatal services; and
  - e. A coverage effective date that is the first day of the month, following the date of application and determination of eligibility.

**Plan requirements. (Effective after December 31, 2019)**

The plan:

1. Must be consistent with coverage provided to children eligible for medical assistance in the state; and
2. Must provide:
  - a. A modified adjusted gross income eligibility limit of one hundred seventy-five percent of the poverty line; and
  - b. Current eligibility may be established from the first day of the month in which the application was received. Retroactive eligibility may be established for the three calendar months that immediately preceded the month in which the application

was received even if there is no eligibility in the month of application. Eligibility can be established if all factors of eligibility are met during each month.

**50-29-05. Limitations of chapter. (Effective through December 31, 2019)**

Health assistance provided under this chapter is not an entitlement. A person does not have a property interest in any health assistance sought or provided under this chapter. If the department estimates that available funds are insufficient to allow participation by additional applicants, the department may take any action appropriate to avoid commitment of funds in excess of available funds, including denying applications and establishing waiting lists, that is not forbidden by title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.] or regulations adopted thereunder. If federal children's health insurance program funding decreases, the department may decrease the income eligibility limit to accommodate the decrease in federal funding, notwithstanding any other provisions of this chapter.

**Limitations of chapter. (Effective after December 31, 2019)** Health assistance provided under this chapter is not an entitlement. A person does not have a property interest in any health assistance sought or provided under this chapter. If the department estimates that available funds are insufficient to allow participation by additional applicants, the department may take any action appropriate to avoid commitment of funds in excess of available funds, including denying applications and establishing waiting lists, that is not forbidden by title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.] or regulations adopted thereunder. Notwithstanding any other provisions of this chapter, the department may not expend funds for purposes of this chapter which exceed the federal funds available and the corresponding nonfederal share, and if federal children's health insurance program funding decreases, or if federal funding expires, the department may decrease the income eligibility limit to operate within the federal funding available or may terminate the program if federal funding expires.

**50-29-06. Grants - Gifts - Donations - Continuing appropriation.**

Repealed by S.L. 2019, ch. 420, § 6.