

Expansion of Medicaid Buy-In for Working People with Disabilities in the NYS Budget 2023-24 Part N of the Final Budget¹

Expands MBI-WPD program eligibility but not until **Jan. 1, 2025** – the State must apply for CMS approval of an 1115 waiver to approve these increases.

| | CURRENT MBI-WPD ELIGIBILITY | Starting Jan. 1, 2025 – if approved by CMS |
|--|--|---|
| Age limit | Age 16 to 65 | Age 16 but no upper age limit – continues after age 65 |
| Asset limit | Same as regular Medicaid ² \$30,182- single \$40,821 - couple | \$300,000 |
| Retirement funds | Excluded from assets | Excluded from assets |
| Income Limit (Net countable income) | 250% FPL (\$3,038/mo. 2023) | 2,250% FPL (\$27,340/mo. 2023) |
| Premiums - Monthly | 150% FPL – 250% FPL – \$25/mo. single and \$50/mo. couple ³ – but these were never implemented. | Premium if income above 250% FPL on sliding scale with cap of \$1,033/mo. and cap of 8.5% of monthly income – see chart below |
| Medical Improvement group -- if cut off SSI or SSD because of work, and still has a severe medically determinable impairment | Still eligible if works 40 hours per month earning “applicable” minimum wage ⁴ | Still eligible if works 40 hours per month earning U.S. minimum wage (\$7.25/hour 2023) |
| Income and resources of responsible relatives (spouse or parent of a child age 16-18) | Deemed available unless spouse does “spousal refusal,” but may be sued for support by local Medicaid agency. | Not deemed available |

| MONTHLY PREMIUMS in EXPANDED PROGRAM Starting Jan. 1, 2025 | | |
|---|-----------------|---------------------------------|
| Net available income | Maximum premium | Premium Cap -- % monthly income |
| 250% FPL | \$347/mo | 4% |
| 250% FPL – 299% FPL | \$347/mo | 4% |
| 300% - 399% FPL | \$518/mo | 6% |
| 400% -499% FPL | \$779/mo | 8.5% |
| 500% or greater | \$1,033/mo | 8.5% |

Examples of Maximum Premium, Using Statutory Cap on Percentage of Income

| Consumer has net available income of: | Net monthly income (2023) - single | Max premium/month before applying cap of % income | Statutory premium cap % monthly income | Actual premium applying statutory cap | Premium is what actual % of net income |
|---------------------------------------|------------------------------------|---|--|---------------------------------------|--|
| 250% | \$3,038 | \$347 | 4% | \$ 122 | 4% |
| 275% | \$3,341 | \$347 | 4% | \$ 134 | 4% |
| 300% | \$3,645 | \$518 | 6% | \$ 219 | 6% |
| 350% | \$4,253 | \$518 | 6% | \$ 255 | 6% |
| 400% | \$4,860 | \$779 | 8.5% | \$ 413 | 8.5% |
| 500% | \$6,075 | \$1,033 | 8.5% | \$ 516 | 8.5% |
| 1000% | \$12,150 | \$1,033 | 8.5% | \$ 1,033 | 8.5% |
| 1500% | \$18,225 | \$1,033 | 8.5% | \$ 1,033 | 5.7% |
| 2000% | \$24,300 | \$1,033 | 8.5% | \$ 1,033 | 4.3% |
| 2250% | \$27,340 | \$1,033 | 8.5% | \$ 1,033 | 3.8% |

Highlighted cells –At higher income levels, premium is a smaller percentage of actual net income because max premium is capped at \$1,033/mo.

Premium cap is based on NET monthly income using Medicaid budgeting rules. If consumer has a high amount of EARNED income relative to UNEARNED income, the consumer’s gross income could be as much as DOUBLE the figures in the 2nd column of the above chart. This is because over half of all gross EARNED income is disregarded for people who are Age 65, Blind or Disabled. If most of consumer’s income is UNEARNED, then their gross income will be roughly the same as the figures in the 2nd column.

Advocacy Issues for Implementation:

1. Amended law says no premium will be charged if income is under 250% FPL. Clarify that this will repeal the existing statutory provision for a \$25/premium (\$50 for couples) for those with income 150% - 250% FPL. SSL 367-a, subd. 12.
2. Statute does not say whether cap on premium is based on percentage of net or gross income. Since every other reference in the amended statute is to “net available income,” the premium should be capped at the specified percentage of net monthly income.
3. To promote the ability of working people with disabilities to support their dependent children, the income limit should be based on the Federal Poverty Level for the “family of the size involved,” as used for the Part D Low Income Subsidy. 42 U.S.C. 1395w-114(a)(1); 42 C.F.R. 432.772. See in context of MSP program, *Wheaton v. McCarthy*, 800 F.3d 282 (6th Cir. 2015); *Winick v. Department of Children and Family Services*, 161 So.3d 464 (Dist. Court of Appeal 2014); *Martin v. N. C. DSS*, 670 S.E.2d 629 (N.C. Court of Appeals 2009); *Skaliotis v. R.I. Dep't of Hum. Servs.*, No. C.A. NO. 95-2438, 1996 WL 936920 (R.I. Super. Apr. 18, 1996). All of the cases required non-eligible spouses to be counted in the household size, but the reasoning as to other family members is applicable, especially dependent minor children.
4. The waiver should clarify that the cap of 30,000 members should not include those who qualify for MBI-WPD under the existing criteria set forth in SSL 366, subd. 1(c)(5) and (6) and SSL 367-a, subd. 12.

For More Information Contact:

Rebecca Wallach, Director
New York Legal Assistance Group
Evelyn Frank Legal Resources Program
E-MAIL rwallach@nylag.org

¹ Part N adds a new section 16 to Soc. Serv. L. 366(16)

² NYS DOH GIS 22 MA/11 fixes a drafting error from the 2022 budget which would have left the MBI-WPD limit at \$20,000, lower than the new regular Medicaid asset limits of \$30,187. Proposed bills A6049/S02391 would make this correction in the statute so that the asset limit is the same for both MBI-WPD and regular non-MAGI Medicaid.

³ SSL 367-a, subd. 12

⁴ SSL 366, subd. 1(c)(6)

