

30:4D-3 et al

6/4/87

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:4D-3 et al (Medicaid--allow "medically needy" persons to qualify)

LAWS OF: 1985 **CHAPTER:** 371

BILL NO: A608

Sponsor(s): Deverin

Date Introduced: Pre-filed

Committee: Assembly: Corrections
Senate: Revenue, Finance and Appropriations

Amended during passage: Yes Substituted for S1718 (not attached according to Governor's recommendations since identical to A608). Amendments denoted by asterisks.

Date of Passage: Assembly: January 8, 1985 Re-enacted 9-9-85
Senate: May 2, 1985 Re-enacted 11-18-85

Date of Approval: November 25, 1985

Following statements are attached if available:

Sponsor statement: Yes Attached: Senate amendments, adopted 5-2-85 (with statement)

Committee statement: Assembly Yes
Senate Yes

Fiscal Note: No

Veto Message: ~~No~~ Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes
 See newspaper clippings--attached

"Medically needy in N.J. are in limbo," 7-13-84 Trenton Times.
 "Health care benefits to 255,000 medically needy," 11-26-85 Star Ledger

(OVER)

974.90 New Jersey. Legislature. General Assembly. Revenue, Finance and
H434 Appropriations Committee. Public hearing, held 6-12-84.
1984c Trenton, 1984.

974.90 New Jersey. Legislature. General Assembly. Revenue, Finance and
H434 Appropriations Committee. Public hearing, held 12-5-84.
1984f Trenton, 1984.

11-25-85

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 608

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman DEVERIN

AN ACT to amend *and supplement* the "New Jersey Medical Assistance and Health Services Act," approved January 15, 1969 (P. L. 1968, c. 413).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1968, c. 413 (C. 30:4D-3) is amended to
2 read as follows:

3 3. Definitions. As used in this act, and unless the context other-
4 wise requires:

5 a. "Applicant" means any person who has made application for
6 purposes of becoming a "qualified applicant."

7 b. "Commissioner" means the Commissioner of the Department
8 of Human Services.

9 c. "Department" means the Department of Human Services,
10 which is herein designated as the single State agency to administer
11 the provisions of this act.

12 d. "Director" means the Director of the Division of Medical
13 Assistance and Health Services.

14 e. "Division" means the Division of Medical Assistance and
15 Health Services.

16 f. "Medicaid" means the New Jersey Medical Assistance and
17 Health Services Program.

18 g. "Medical assistance" means payments on behalf of recipients
19 to providers for medical care and services authorized under this
20 act.

21 h. "Provider" means any person, public or private institution,
22 agency or business concern approved by the division lawfully pro-

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted January 3, 1985.

**—Senate committee amendments adopted February 14, 1985.

***—Senate amendments adopted May 2, 1985.

****—Assembly amendments adopted in accordance with Governor's recommendations August 28, 1985.

23 viding medical care, services, goods and supplies authorized under
 24 this act, holding, where applicable, a current valid license to pro-
 25 vide such services or to dispense such goods or supplies.

26 i. "Qualified applicant" means a person who is a resident of
 27 this State and is determined to need medical care and services as
 28 provided under this act, and who:

29 (1) Is a recipient of aid to families with dependent children;
 29A **[or]**

30 (2) Is a recipient of supplemental security income for the aged,
 31 blind and disabled under Title XVI of the Social Security Act; **[or]**

32 (3) Is an "ineligible spouse" of a recipient of supplemental
 33 security income for the aged, blind and disabled under Title XVI of
 34 the Social Security Act, as defined by the federal Social Security
 35 Administration; **[or]**

36 (4) Would be eligible to receive public assistance under a cate-
 37 gorical assistance program except for failure to meet an eligibility
 38 condition or requirement imposed under such State program which
 39 is prohibited under Title XIX of the federal Social Security Act
 40 such as a durational residence requirement, relative responsibility,
 41 consent to imposition of a lien; **[or]**

42 (5) Is a child between 18 and 21 years of age who would be
 43 eligible for aid to families with dependent children living in the
 44 family group except for lack of school attendance or pursuit of
 45 formalized vocational or technical training; **[or]**

46 (6) Is an individual under 21 years of age who qualifies for
 47 categorical assistance on the basis of financial eligibility, but does
 48 not qualify as a dependent child under the State's program of aid
 49 to families with dependent children (AFDC), or groups of such
 50 individuals, including but not limited to, children in foster place-
 51 ment under supervision of the Division of Youth and Family
 52 Services whose maintenance is being paid in whole or in part from
 53 public funds, children placed in a foster home or institution by a
 54 private adoption agency in New Jersey or children in intermediate
 55 care facilities, including institutions for the mentally retarded, or
 56 in psychiatric hospitals; **[or]**

57 (7) Meets the standard of need applicable to his circumstances
 58 under a categorical assistance program or supplemental security
 59 income program, but is not receiving such assistance and applies
 60 for medical assistance only.

61 A person shall not be considered a qualified applicant if, within
 62 one year of becoming or making application to become a qualified
 63 applicant, he has made a voluntary assignment or transfer of real
 64 or personal property, or any interest or estate in property, for less
 65 than adequate consideration. Such voluntary assignment or trans-

66 fer of property shall be deemed to have been made for the purpose
 67 of becoming a qualified applicant in the absence of evidence to
 68 the contrary supplied by the applicant. This requirement shall not
 69 be applicable to Supplemental Security Income applicants or aged,
 70 blind or disabled applicants for Medicaid only unless authorized
 71 by federal law, or

72 (8) ***[Meets the standard of need applicable to his circumstances**
 73 **under a medically needy category set forth in subsection b. of**
 74 **section 7 of P. L. 1968, c. 413 (C. 30:4D-7).]*** **Is determined to be**
 75 **medically needy and meets all the eligibility requirements described**
 76 **below:**

77 (a) *The following individuals are eligible for services, if*
 78 *they are determined to be medically needy:*

79 (i) *Pregnant women;*

80 (ii) *Dependent children under the age of 21;*

81 ******[(iii) Caretaker relatives of dependent children under**
 82 **the age of 21;]******

83 ******[(iv)]****** ******(iii)****** *Individuals who are 65 years*
 84 *of age and older; and*

85 ******[(v)]****** ******(iv)****** *Individuals who are blind or*
 86 *disabled pursuant to either 42 C.F.R. ****[436.530]*****
 86A ***435.530** et seq. or 42 C.F.R. ****[436.540]**** **435.540***
 86B *et seq., respectively.*

87 (b) *The following income standard shall be used to deter-*
 88 *mine medically needy eligibility:*

89 (i) *For one person and two person households, the income*
 90 *standard shall be **the maximum allowable under federal*
 91 *law, but shall not exceed **133 1/3% of the State's payment*
 92 *level to two person households eligible to receive assistance*
 92A *pursuant to P. L. 1959, c. 86 (C. 44:10-1 et seq.); and*

93 (ii) *For households of three or more persons, the income*
 94 *standard shall be set at 133 1/3% of the State's payment*
 95 *level to similar size households eligible to receive assistance*
 96 *pursuant to P. L. 1959, c. 86 (C. 44:10-1 et seq.).*

97 (c) *The following resource standard shall be used to deter-*
 98 *mine medically needy eligibility:*

99 (i) *For one person households, the resource standard*
 100 *200% of the resource standard for recipients of Supplemen-*
 101 *tal Security Income pursuant to 42 U.S.C. § 1382 (1)(B);*

102 (ii) *For two person households, the resource standard*
 103 *shall be 200% of the resource standard for recipients of Sup-*
 104 *plemental Security Income pursuant to 42 U.S.C. § 1382*
 105 *(2)(B); and*

106 (iii) For households of three or more persons, the resource
107 standard in subparagraph (c)(ii) above shall be increased
108 by \$100.00 for each additional person.

108A ** (iv) The resource standard established in (i), (ii), and
108B (iii) are subject to federal approval and the resource stan-
108C dard may be lower if required by the federal Department of
108D Health and Human Services.**

109 (d) Individuals whose income exceeds those established in
110 subparagraph (b) of paragraph (8) of this subsection may be-
111 come medically needy by incurring medical expenses as defined
112 in 42 C.F.R. 435.831 (c) which will reduce their income to the
113 applicable medically needy income established in subparagraph
114 (b) of paragraph (8) of this subsection.

115 (e) A six month **~~prospective~~** period shall be used to
116 determine whether an individual is medically needy.

117 (f) Eligibility determinations for the medically needy pro-
118 gram shall be administered as follows:

119 (i) County welfare agencies are responsible for determin-
120 ing and certifying the eligibility of pregnant
121 women****~~],~~**** and**** dependent children****~~],~~
122 and caretaker relatives of dependent children****. **~~Sev-~~
123 ~~enty-five percent~~** **The division shall reimburse county
124 welfare agencies for 100% of the reasonable costs of ad-
125 ministration which are not reimbursed by the federal gov-
125A ernment for the first 12 months of this program's operation.
125B Thereafter, 75%** of the administrative costs incurred by
125C county welfare agencies which are not reimbursed by the
125D federal government shall be reimbursed by the division;

126 (ii) The division is responsible for certifying the eligi-
127 bility of individuals who are 65 years of age and older and
128 individuals who are blind or disabled. The division may
129 enter into contracts with county welfare agencies to deter-
130 mine certain aspects of eligibility. In such instances the
131 division shall provide county welfare agencies with all in-
132 formation the division may have available on the individual.

133 The division shall notify all eligible recipients of the Phar-
134 maceutical Assistance to the Aged and Disabled program,
135 P. L. 1975, c. 194 (C. 30:4D-20 et seq.) on an annual basis
136 of the medically needy program and the program's general
137 requirements. The division shall **~~arrange appointments~~
137A ~~for~~** **take all reasonable administrative actions to ensure
138 that** Pharmaceutical Assistance to the Aged and Disabled
139 recipients, who notify the division that they may be eligible

140 for the program, ****[**at locations and times convenient for the
 141 recipient, including the recipient's home if the recipient is
 142 unable to travel**]**** **have their applications processed ex-
 142A peditiously, at times and locations convenient to the re-
 142B cipients** and

143 (iii) The division is responsible for certifying incurred
 144 medical expenses for all eligible persons who attempt to
 145 qualify for the program pursuant to subparagraph (d) of
 146 paragraph (8) of this subsection.*

147 j. "Recipient" means any qualified applicant receiving benefits
 148 under this act.

149 k. "Resident" means a person who is living in the State
 150 voluntarily with the intention of making his home there and not
 151 for a temporary purpose. Temporary absences from the State,
 152 with subsequent returns to the State or intent to return when the
 153 purposes of the absences have been accomplished, do not interrupt
 154 continuity of residence.

155 l. "State Medicaid Commission" means the Governor, the Com-
 156 missioner of Human Services, the President of the Senate and the
 157 Speaker of the General Assembly, hereby constituted a commission
 158 to approve and direct the means and method for the payment of
 159 claims pursuant to this act.

160 m. "Third party" means any person, institution, corporation,
 161 insurance company, public, private or governmental entity who
 162 is or may be liable in contract, tort, or otherwise by law or equity
 163 to pay all or part of the medical cost of injury, disease or disability
 164 of an applicant for or recipient of medical assistance payable under
 165 this act.

1 *2. Section 6 of P. L. 1968, c. 413 (C. 30:4D-6) is amended to
 2 read as follows:

3 6. a. Subject to the requirements of Title XIX of the federal
 4 Social Security Act, the limitations imposed by this act and by the
 5 rules and regulations promulgated pursuant thereto, the depart-
 6 ment shall provide medical assistance to qualified applicants, in-
 7 cluding authorized services within each of the following classifica-
 8 tions:

- 9 (1) Inpatient hospital services;
- 10 (2) Outpatient hospital services;
- 11 (3) Other laboratory and X-ray services;
- 12 (4) (a) Skilled nursing or intermediate care facility services;
- 13 (b) Such early and periodic screening and diagnosis of individ-
 14 uals who are eligible under the program and are under age 21, to
 15 ascertain their physical or mental defects and such health care,

16 treatment, and other measures to correct or ameliorate defects and
17 chronic conditions discovered thereby, as may be provided in regu-
18 lations of the Secretary of the federal Department of Health and
19 Human Services and approved by the commissioner;

20 (5) Physician's services furnished in the office, the patient's
21 home, a hospital, a skilled nursing or intermediate care facility or
22 elsewhere.

23 b. Subject to the limitations imposed by federal law, by this act,
24 and by the rules and regulations promulgated pursuant thereto, the
25 medical assistance program may be expanded to include authorized
26 services within each of the following classifications:

27 (1) Medical care not included in subsection a. (5) above, or any
28 other type of remedial care recognized under State law, furnished
29 by licensed practitioners within the scope of their practice, as
30 defined by State law;

31 (2) Home health care services;

32 (3) Clinic services;

33 (4) Dental services;

34 (5) Physical therapy and related services;

35 (6) Prescribed drugs, dentures, and prosthetic devices; and eye-
36 glasses prescribed by a physician skilled in diseases of the eye or
37 by an optometrist, whichever the individual may select;

38 (7) Optometric services;

39 (8) Podiatric services;

40 (9) Chiropractic services;

41 (10) Psychological services;

42 (11) Inpatient psychiatric hospital services for individuals under
43 21 years of age, or under age 22 if they are receiving such services
44 immediately before attaining age 21;

45 (12) Other diagnostic, screening, preventive, and rehabilitative
46 services, and other remedial care;

47 (13) Inpatient hospital services, skilled nursing facility services
48 and intermediate care facility services for individuals 65 years of
49 age or over in an institution for mental diseases;

50 (14) Intermediate care facility services;

51 (15) Transportation services;

52 (16) Services in connection with the inpatient or outpatient
53 treatment or care of drug abuse, when the treatment is prescribed
54 by a physician and provided in a licensed hospital or in a narcotic
55 and drug abuse treatment center approved by the Department of
56 Health pursuant to P. L. 1970, c. 334 (C. 26:2GX21 et seq.) and
57 whose staff includes a medical director, and limited to those services

58 eligible for federal financial participation under Title XIX of the
59 federal Social Security Act;

60 (17) Any other medical care and any other type of remedial care
61 recognized under State law, specified by the Secretary of the federal
62 Department of Health and Human Services, and approved by the
63 commissioner.

64 c. Payments for the foregoing services, goods and supplies fur-
65 nished pursuant to this act shall be made to the extent authorized
66 by this act, the rules and regulations promulgated pursuant thereto
67 and, where applicable, subject to the agreement of insurance pro-
68 vided for under this act. Said payments shall constitute payment
69 in full to the provider on behalf of the recipient. Every provider
70 making a claim for payment pursuant to this act shall certify in
71 writing on the claim submitted that no additional amount will be
72 charged to the recipient, his family, his representative or others on
73 his behalf for the services, goods and supplies furnished pursuant
74 to this act.

75 No provider whose claim for payment pursuant to this act has
76 been denied because the services, goods or supplies were determined
77 to be medically unnecessary shall seek reimbursement from the
78 recipient, his family, his representative or others on his behalf for
79 such services, goods and supplies provided pursuant to this act;
80 provided, however, a provider may seek reimbursement from a
81 recipient for services, goods or supplies not authorized by this act
82 if the recipient elected to receive the services, goods or supplies
83 with the knowledge that they were not authorized.

84 d. Any individual eligible for medical assistance (including
85 drugs) may obtain such assistance from any person qualified to
86 perform the service or services required (including an organiza-
87 tion which provides such services, or arranges for their avail-
88 ability on a prepayment basis), who undertakes to provide him
89 such services.

90 No copayment or other form of cost-sharing shall be imposed on
91 any individual eligible for medical assistance, except as mandated
92 by federal law as a condition of federal financial participation.

93 e. Anything in this act to the contrary notwithstanding, no pay-
94 ments for medical assistance shall be made under this act with
95 respect to care or services for any individual who:

96 (1) Is an inmate of a public institution (except as a patient in a
97 medical institution); provided, however, that an individual who is
98 otherwise eligible may continue to receive services for the month
99 in which he becomes an inmate, should the commissioner determine

100 to expand the scope of Medicaid eligibility to include such an in-
 101 dividual, subject to the limitations imposed by federal law and
 102 regulations, or

103 (2) Has not attained 65 years of age and who is a patient in an
 104 institution for mental diseases, or

105 (3) Is over 21 years of age and who is receiving inpatient
 106 psychiatric hospital services in a psychiatric facility; provided,
 107 however, that an individual who was receiving such services im-
 108 mediately prior to attaining age 21 may continue to receive such
 109 services until he reaches age 22. Nothing in this subsection shall
 110 prohibit the commissioner from extending medical assistance to
 111 all eligible persons receiving inpatient psychiatric services, pro-
 112 vided that there is federal financial participation available.

113 f. Any provision in a contract of insurance, will, trust agreement
 114 or other instrument which reduces or excludes coverage or payment
 115 for goods and services to an individual because of that individual's
 116 eligibility for or receipt of Medicaid benefits shall be null and void,
 117 and no payments shall be made under this act as a result of any
 118 such provision.

119 g. *The following services shall be provided to eligible medically*
 120 *needy individuals as follows:*

121 (1) *Pregnant women shall be provided prenatal care and delivery*
 122 *services and postpartum care including the services cited in sub-*
 123 *section a. ***(1),*(3) and (5) of section 6 of P. L. 1968, c. 413 (C.***
 124 *30:4D-6a. ***(1),*(3) and (5)) and subsection b. (1)-(10), (12),***
 125 *(15) and (17) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6b.(1)-(10),*
 126 *(12), (15) and (17)).*

127 (2) *Dependent children ******[and caretaker relatives]****** shall*
 128 *be provided with services cited in subsection a. ****[(2)]** *(3)*****
 129 *and (5) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6a. ****[(2)]*****
 130 ****(3)** and (5)) and subsection b. (1), *(2),*(3), (4), *(5),*****
 131 *(6), (7), (10), (12), (15) and (17) of section 6 of P. L. 1968, c. 413*
 131A *(C. 30:4D-6b. (1), *(2),*(3), (4), *(5),*(6), (7), (10), (12),*
 131B *(15) and (17)).*

132 (3) *Individuals who are 65 years of age or older shall be pro-*
 133 *vided with services cited in subsection a. (3) and (5) of section 6*
 134 *of P. L. 1968, c. 413 (C. 30:4D-6a.(3) and (5)) and subsection b.*
 135 *(1)-(5), ****[including]** *(6) excluding**** prescribed drugs, (7),*
 136 *(8), (10), (12), (15) and (17) of section 6 of P. L. 1968, c. 413 (C.*
 137 *30:4D-6b. (1)-(5), (6) excluding prescribed drugs, (7), (8), (10),*
 137A *(12), (15) and (17)).*

138 (4) *Individuals who are blind or disabled shall be provided with*
 139 *services cited in subsection a. (3) and (5) of section 6 of P. L. 1968,*

140 c. 413 (C. 30:4D-6a.(3) and (5)) and subsection b. (1)-(5), (6)
 141 ****[including]**** ****excluding**** prescribed drugs, (7), (8), (10),
 142 (12), (15) and (17) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6b.
 143 (1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15)
 143A and (17)).

144 (5) **** (a) **** Inpatient hospital services, subsection a.(1) of sec-
 145 tion 6 of P. L. 1968, c. 413 (C. 30:4D-6a.(1)) ****[and outpatient**
 146 **hospital services, subsection a.(2) of section 6 of P. L. 1968, c. 413**
 147 **(C. 30:4D-6a. (2))]**** shall only be provided to eligible medically
 148 **needy individuals****, other than pregnant women,** if the federal
 149 Department of Health and Human Services discontinues the State's
 149A waiver to establish ****inpatient**** hospital reimbursement rates
 150 for the Medicare and Medicaid programs under the authority of
 151 section 601 (c) (3) of the Social Security Act Amendments of 1983,
 152 Pub. L. 98-21 (42 U.S.C. § 1395ww (c) (5)). Inpatient hospital
 153 services ****[and outpatient hospital services]**** may be extended
 154 to ****[pregnant women and dependent children]**** ****other eligible**
 155 **medically needy individuals**** if the federal Department of Health
 155A and Human Services directs that these services be included.
 156 ****[However, the use of outpatient hospital services shall be limited**
 157 **to medical conditions defined as life threatening by the commis-**
 158 **sioner. The division shall monitor the use of inpatient and out-**
 159 **patient hospital services by medically needy persons.]*****

160 **** (b) Outpatient hospital services, subsection a.(2) of section 6**
 161 **of P. L. 1968, c. 413 (C. 30:4D-6a.(2)) shall only be provided to**
 162 **eligible medically needy individuals if the federal Department of**
 163 **Health and Human Services discontinues the State's waiver to**
 164 **establish outpatient hospital reimbursement rates for the Medicare**
 165 **and Medicaid programs under the authority of section 601 (c) (3)**
 166 **of the Social Security Amendments of 1983, Pub. L. 98-21 (42**
 167 **U. S. C. § 1395 ww(c)(5)). Outpatient hospital services may be**
 168 **extended to all or to certain medically needy individuals if the**
 169 **federal Department of Health and Human Services directs that**
 170 **these services be included. However, the use of outpatient hospital**
 171 **services shall be limited to clinic services and to ***[medical con-**
 172 **ditions defined as life threatening by the commissioner]**** *****emer-**
 173 **gency room services for injuries and significant acute medical con-**
 174 **ditions***.**

175 (c) The division shall monitor the use of inpatient and outpatient
 176 hospital services by medically needy persons.**

1 ***[2.]* *3.*** Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended
 2 to read as follows:

3 7. Duties of commissioner. The commissioner is authorized and

4 empowered to issue, or to cause to be issued through the Division
5 of Medical Assistance and Health Services all necessary rules and
6 regulations and administrative orders, and to do or cause to be
7 done all other acts and things necessary to secure for the State of
8 New Jersey the maximum federal participation that is available
9 with respect to a program of medical assistance, consistent with
10 fiscal responsibility and within the limits of funds available for
11 any fiscal year, and to the extent authorized by the medical assist-
12 ance program plan; to adopt fee schedules with regard to medical
13 assistance benefits and otherwise to accomplish the purposes of this
14 act, including specifically the following:

15 a. Subject to the limits imposed by this act, to submit a plan for
16 medical assistance, as required by Title XIX of the Federal Social
17 Security Act, to the federal Department of Health[, Education]
18 and [Welfare] *Human Services* for approval pursuant to the pro-
19 visions of such laws; to act for the State in making negotiations
20 relative to the submission and approval of such plan, to make such
21 arrangements, not inconsistent with the law, as may be required by
22 or pursuant to federal law to obtain and retain such approval and
23 to secure for the State the benefits of the provisions of such law;

24 b. Subject to the limits imposed by this act, to determine the
25 amount and scope of services to be covered, that the amounts to be
26 paid are reasonable, and the duration of medical assistance to be
27 furnished; provided, however, that the department shall provide
28 medical assistance on behalf of all recipients of categorical assist-
29 ance and such other related groups as are mandatory under federal
30 laws and rules and regulations, as they now are or as they may
31 be hereafter amended, in order to obtain federal matching funds
32 for such purposes and, in addition, provide medical assistance for
33 the foster children specified in section 3. i. (7) of this act. The
34 medical assistance provided for these groups shall not be less in
35 scope, duration, or amount than is currently furnished such groups,
36 and in addition, shall include at least the minimum services re-
37 quired under federal laws and rules and regulations to obtain
38 federal matching funds for such purposes.

39 The commissioner is authorized and empowered, at such times
40 as he may determine feasible, within the limits of appropriated
41 funds for any fiscal year, to extend the scope, duration, and amount
42 of medical assistance on behalf of these groups of categorical
43 assistance recipients, related groups as are mandatory, and foster
44 children authorized pursuant to section 3. i. (7) of this act, so
45 as to include, in whole or in part, the optional medical services
46 authorized under federal laws and rules and regulations, and the

47 commissioner shall have the authority to establish and maintain the
 48 priorities given such optional medical services; provided, however,
 49 that medical assistance shall be provided to at least such groups
 50 and in such scope, duration, and amount as are required to obtain
 51 federal matching funds;

52 The commissioner is further authorized and empowered, at such
 53 times as he may determine feasible, within the limits of appropri-
 54 ated funds for any fiscal year, to issue, or cause to be issued through
 55 the Division of Medical Assistance and Health Services all neces-
 56 sary rules, regulations and administrative orders, and to do or
 57 cause to be done all other acts and things necessary to implement
 58 and administer demonstration projects pursuant to Title XI, Sec-
 59 tion 1115 of the federal Social Security Act, including, but not
 60 limited to waiving compliance with specific provisions of this act,
 61 to the extent and for the period of time the commissioner deems
 62 necessary, as well as contracting with any legal entity, including
 63 but not limited to corporations organized pursuant to Title 14A,
 64 New Jersey Statutes (N. J. S. 14A :1-1 et seq.) **and**, Title 15, Re-
 65 vised Statutes (R. S. 15:1-1 et seq.) *and Title 15A, New Jersey*
 66 *Statutes (N. J. S. 15A:1-1 et seq.)* as well as boards, groups,
 66A agencies, persons and other public or private entities**;**

67 **[The commissioner is further authorized and empowered, at such*
 68 *times as he may determine feasible, within the limits of appropri-*
 69 *ated funds for any fiscal year, to expand the medical assistance*
 70 *program to include medically needy groups whose income and*
 71 *resources equal or exceed the levels of maintenance under the plan*
 72 *but are insufficient to meet their medical costs and who, except for*
 73 *their financial circumstances, meet all of the conditions of eligibility*
 74 *under one of the categorical assistance or supplemental security*
 75 *income recipient programs. The medical assistance provided for*
 76 *these medically needy groups shall include at least the minimum*
 77 *services required under federal laws, rules or regulations to obtain*
 78 *federal matching funds for these purposes, and may be expanded*
 79 *to provide medical assistance services currently furnished other*
 80 *recipients.]**

81 c. To administer the provisions of this act;

82 d. To make reports to the federal Department of Health**,** Edu-
 83 cation**]** and **[Welfare]** *Human Services* as from time to time may
 84 be required by such federal department and to the New Jersey
 85 Legislature as hereinafter provided;

86 e. To assure that any applicant, qualified applicant or recipient
 87 shall be afforded the opportunity for a hearing should his claim for
 88 medical assistance be denied, reduced, terminated or not acted upon
 89 within a reasonable time;

- 90 f. To assure that providers shall be afforded the opportunity for
91 an administrative hearing within a reasonable time on any valid
92 complaint arising out of the claims payment process;
- 93 g. To provide safeguards to restrict the use or disclosure of
94 information concerning applicants and recipients to purposes
95 directly connected with administration of this act;
- 96 h. To take all necessary action to recover any and all payments
97 incorrectly made to or illegally received by a provider from such
98 provider or his estate or from any other person, firm, corporation,
99 partnership or entity responsible for or receiving the benefit or
100 possession of the incorrect or illegal payments or their estates,
101 successors or assigns, and to assess and collect such penalties as
102 are provided for herein;
- 103 i. To take all necessary action to recover the cost of benefits
104 incorrectly provided to or illegally obtained by a recipient, includ-
105 ing those made after a voluntary divestiture of real or personal
106 property or any interest or estate in property for less than adequate
107 consideration made for the purpose of qualifying for assistance
108 from such recipient, legally responsible relative, representative
109 payee, or any other party or parties whose action or inaction
110 resulted in the incorrect or illegal payments, or from their respec-
111 tive estates, as the case may be and to assess and collect such
112 penalties as are provided for herein, except that no lien may be
113 imposed against property of the recipient prior to his death except
114 in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17);
115 provided, however, that no recovery action shall be initiated 5
116 years after an incorrect payment has been made to a recipient
117 when such incorrect payment was due solely to an error on the
118 part of the State or any agency, agent or subdivision thereof;
- 119 j. To take all necessary action to recover the cost of benefits
120 correctly provided to a recipient from the estate of said recipient
121 in accordance with sections 6 through 12 of this amendatory and
122 supplementary act;
- 123 k. To take all reasonable measures to ascertain the legal or
124 equitable liability of third parties to pay for care and services
125 (available under the plan) arising out of injury, disease, or dis-
126 ability; where it is known that a third party has a liability, to treat
127 such liability as a resource of the individual on whose behalf the
128 care and services are made available for purposes of determining
129 eligibility; and in any case where such a liability is found to exist
130 after medical assistance has been made available on behalf of the
131 individual, to seek reimbursement for such assistance to the extent
132 of such liability;

133 l. To compromise, waive or settle and execute a release of any
134 claim arising under this act including interest or other penalties,
135 or designate another to compromise, waive or settle and execute
136 a release of any claim arising under this act. The commissioner or
137 his designee whose title shall be specified by regulation may com-
138 promise, settle or waive any such claim in whole or in part, either
139 in the interest of the medicaid program or for any other reason
140 which the commissioner by regulation shall establish;

141 m. To pay or credit to a provider any net amount found by
142 final audit as defined by regulation to be owing to the provider.
143 Such payment, if it is not made within 45 days of the final audit,
144 shall include interest on the amount due at the maximum legal rate
145 in effect on the date the payment became due, except that such
146 interest shall not be paid on any obligation for the period preceding
147 September 15, 1976. This subsection shall not apply until federal
148 financial participation is available for such interest payments;

149 n. To issue, or designate another to issue, subpoenas to compel
150 the attendance of witnesses and the production of books, records,
151 accounts, papers and documents of any party, whether or not that
152 party is a provider, which directly or indirectly relate to goods or
153 services provided under this act, for the purpose of assisting in
154 any investigation, examination, or inspection, or in any suspension,
155 debarment, disqualification, recovery, or other proceeding arising
156 under this act;

157 o. To solicit, receive and review bids pursuant to the provisions
158 of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and
159 supplements thereto, by authorized insurance companies and non-
160 profit hospital service corporations or medical service corpora-
161 tions, incorporated in New Jersey, and authorized to do business
162 pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940,
163 c. 74 (C. 17:48A-1 et seq.), and to make recommendations in con-
164 nection therewith to the State Medicaid Commission;

165 p. To contract, or otherwise provide as in this act provided, for
166 the payment of claims in the manner approved by the State Medi-
167 caid Commission;

168 q. Where necessary, to advance funds to the underwriter or fiscal
169 agent to enable such underwriter or fiscal agent, in accordance with
170 terms of its contract, to make payments to providers;

171 r. To enter into contracts with federal, State, or local govern-
172 mental agencies, or other appropriate parties, when necessary to
173 carry out the provisions of this act;

174 s. To assure that the nature and quality of the medical assistance
175 provided for under this act shall be uniform and equitable to all
176 recipients.

1 *4. (New section) ******[***The State share of program costs shall*
2 *be appropriated from the General Fund until such time as the com-*
3 *mission to review the disbursement of casino gambling revenues*
4 *established pursuant to Senate Concurrent Resolution No. 97 of*
5 *1984, issues its final report.***]****** *****The establishment and con-*
6 *tinuation of this medically needy program is contingent upon the*
7 *availability of a minimum 40% federal financial participation for*
8 *payments made from the medical assistance recipient account.*****

1 ***[3.]*** *5.* This act shall take effect ***[**six months**]*** *on ****[**the
2 *first day of the seventh month** following enactment**]**** *****[***Jan-
3 *uary***]***** ****April**** *1, 1986***, but all arrangements necessary or
4 appropriate to enable this act to become fully effective on this date
5 shall be made as promptly as possible as though this act were effec-
6 tive immediately. *The department shall submit to the Legislature
7 on a monthly basis a progress report detailing the status of imple-
8 mentation and any problems which have been encountered.*

STATEMENT

This bill would expand the medicaid program to certain "medically needy" groups who 1. are ineligible for medicaid because their incomes are too high, but 2. can demonstrate that their incomes are insufficient to meet medical costs, and 3. except for financial circumstances, meet all of the conditions of eligibility under one of the categorical assistance or supplemental security income programs.

ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

STATEMENT TO
ASSEMBLY, No. 608

STATE OF NEW JERSEY

DATED: MARCH 15, 1984

This bill expands the Medicaid program to cover certain medically needy groups whose income and resources exceed the Medicaid eligibility standard but are insufficient to meet their medical expenses and who, except for their income and resources, meet all of the conditions of eligibility under one of the categorical assistance or supplemental security income programs; i.e., as an aged, blind or disabled person, or as a member of a family with dependent children where one parent is absent, incapacitated or unemployed.

The committee reported the bill with the recommendation that it be referred to the Revenue, Finance and Appropriations Committee for consideration of its fiscal impact.

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SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 608

[OFFICIAL COPY REPRINT]
with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1985

This bill, as amended by the committee, extends New Jersey's Medicaid program to cover certain groups of medically needy persons whose income and resources exceed the Medicaid eligibility standard but are insufficient to meet their medical expenses, and who, except for income and resources, would otherwise be eligible.

PROVISIONS:

The provisions of the bill, as amended, are outlined below, and draw on the statement to Assembly Bill No. 608 (OCR) reported by the Assembly Revenue, Finance and Appropriations Committee, following that committee's public hearings on the bill.

Five classes of individuals would be eligible for the program, subject to meeting the program's income and assets tests:

- Pregnant women
- Dependent children under the age of 21
- Caretaker relatives of dependent children
- Persons 65 years or older
- Persons who are blind or disabled

The income level is set at 133 $\frac{1}{3}$ % of the State's AFDC standard for two person households for one and two person households and 133 $\frac{1}{3}$ % of the State's AFDC standard based on comparable size households for households of three or more persons. Households with income above these levels may qualify by incurring medical expenses which reduce their household income to the allowable level, e.g., a two person household with income of \$432.00/month must incur \$30.00 in medical expenses to reduce the households income to \$392.00. This is known as "spenddown."

The asset test is set at 200% of the federal Supplementary Security Income level for one and two person households with \$100.00 for each additional person.

HOUSEHOLD SIZE

	1	2	3	4	5	6
Income	\$ 392	\$ 392	\$ 517	\$ 592	\$ 675	\$ 750
Assets	\$3,200	\$4,800	\$4,900	\$5,000	\$5,100	\$5,200

The following services are to be provided to medically needy persons:

	<u>Preg- nant Women</u>	<u>Depen- dent Children</u>	<u>Care- taker Rela- tives</u>	<u>Aged</u>	<u>Blind/ Disabled</u>
Other Lab and					
X-Ray	X	X	X	X	X
Physioian	X	X	X	X	X
Other Licensed					
Practitioners ...	X	X	X	X	X
Home Health					
Care	X	X	X	X	X
Clinic	X	X	X	X	X
Dental	X	X	X	X	X
Physical Therapy .	X	X	X	X	X
Prescribed drugs, dentures, pros- thetic devices, eye glasses	X	X	X	except pre- scribed drugs X	except pre- scribed drugs X
Optometric	X	X	X	X	X
Podiatric	X			X	X
Chiropractic	X				
Psychological	X	X	X	X	X
Other diagnostic, screening, pre- ventive and re- habilitative ser- vices	X	X	X	X	X
Transportation ...	X	X	X	X	X
Other medical care recognized under State law	X	X	X	X	X

Inpatient and outpatient hospital services, except for inpatient hospital services for pregnant women, are not included among the services provided to medically needy persons unless the State's waiver to set Medicare and Medicaid rates is terminated. However, in the event that federal authorities direct that inpatient or outpatient hospital ser-

vices must be provided to other medically needy individuals, language is included which would allow these services to be provided. However, the provision of outpatient services is limited to clinic services and to life threatening medical conditions in order to prevent the inappropriate use of outpatient hospital services.

County welfare agencies will be responsible for certifying the eligibility of pregnant women, dependent children and caretaker relatives. In the first year of the program's operation, the State will reimburse county welfare agencies for 100% of reasonable administrative costs of eligibility determinations after deducting any federal reimbursement. Thereafter, administrative costs not reimbursed by the federal government will be shared 75% State/25% counties. Primary responsibility for eligibility determination for the aged, blind and disabled is vested with the Division of Medical Assistance and Health Services, though the division may contract with county welfare agencies to handle certain aspects of the eligibility determination process.

FISCAL IMPACT:

The Department of Human Services has estimated that 100,000 children, 2,000 pregnant women, 90,000 aged persons and 12,500 disabled persons will qualify for the program and that annual costs of the program would be approximately \$80 million (\$40 million federal/\$40 million State). However, these estimates do not take into account caretaker relatives, who were brought into the program under amendments previously adopted by the Assembly Revenue, Finance and Appropriations Committee, nor do they include additional costs associated with amendments adopted by this committee, as described below.

COMMITTEE AMENDMENTS:

In addition to various technical corrections to the bill, the committee adopted the following substantive amendments with the sponsor's concurrence:

(1) Inpatient hospital services are extended to pregnant women since federal approval of the State's medically needy program could be jeopardized without such provision;

(2) Home health care services and physical therapy services are extended to dependent children and caretaker relatives; and

(3) In the first year of the program's operation, the Division of Medical Assistance and Health Services will reimburse county welfare agencies for the entire amount of their reasonable administrative costs that are not picked up by the federal government. The county agencies have the primary responsibility for eligibility determination for preg-

nant women, dependent children and caretaker relatives. After the first year, there will be a 75% State/25% county cost-sharing arrangement, after deducting federal participation.

As amended, this bill is identical to Senate Bill No. 1718, also reported favorably by the committee with amendments.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 28, 1985

ASSEMBLY BILL NO. 608 (2nd OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 608 (2nd OCR) with my recommendations for reconsideration.

This bill expands the existing Medicaid program, which is administered by the Department of Human Services, to include certain "medically needy" persons who are ineligible for Medicaid because their incomes are too high. Specifically, the bill provides medical assistance for seniors, pregnant women, the blind or disabled, and dependent children and their caretaker relatives. To be eligible, these individuals may have incomes of no more than 133% of the current AFDC (public welfare) standard, and liquid assets of no greater than \$3,000 for a single person and \$4,500 for a couple. This program is unique because it allows persons with any income to "spend down" to meet the 133% income eligibility standards by including medical expenses they have incurred.

The Department of Human Services estimates that there are approximately 90,000 medically needy aged persons, 100,000 medically needy children, 50,000 medically needy adults, 12,500 medically needy disabled and blind persons, and 3,000 medically needy pregnant women who may be eligible for this program.

I fully support an assistance program for the medically needy in New Jersey and have in fact recommended its enactment by the Legislature for some time. However, I am concerned that certain provisions in this particular bill could create fiscal imbalances which would, in the long run, be detrimental to the State and to the medical assistance program implemented by this bill.

Specifically, the bill would require full funding of the State share of the program from the General Fund. My fiscal year 1986 budget includes a recommended appropriation of \$9.8 million for a Medically Needy Program from

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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the General Fund, \$12.4 million from the Casino Revenue Fund and \$25.3 million in federal funds to cover the \$47.5 million one-half year cost of this program. Assembly Bill No. 608 (2nd OCR) replaces the funds for this program which were to be drawn from the Casino Revenue Fund with additional monies from the General Fund pending a review of the disbursement of casino gambling revenues. The State share of the annual cost of the Medically Needy Program as proposed in Assembly Bill No. 608 (2nd OCR) is \$53.9 million, which would result in the requirement of an additional \$34.3 million annually, unadjusted for inflation, from the General Fund over and above my original budget proposal.

I was able to recommend the use of casino funds for this program because of an existing surplus in the Casino Revenue Fund which was generated, in part, as the result of my recommendation to reverse the practice of charging certain costs relative to the Homestead Rebate Program to the Casino Revenue Fund rather than to the General Fund. By correcting this past practice, the Casino Revenue Fund has increased by \$63 million since the beginning of fiscal year 1982, and will increase an additional \$33 million in fiscal year 1986.

In light of the State's numerous fiscal commitments yet to be resolved, and those additional spending commitments passed with, but outside, the budget for fiscal year 1986, the proposed use of General Fund revenues pursuant to Assembly Bill No. 608 (2nd OCR) is inappropriate and unwise. Furthermore, in subsequent years, the total burden borne by the General Fund for this program will undoubtedly grow and may prevent the State from meeting other important needs. It is ironic to note that the Legislature, almost a month after they passed this bill, released and passed a budget containing the appropriation to fund Assembly Bill No. 608 (2nd OCR) from both the General Fund and the Casino Fund as I originally recommended. I assume, therefore, that they will concur in this Conditional Veto which conforms to the State Budget they passed almost unanimously.

In addition, Assembly Bill No. 608 (2nd OCR) authorizes payment for services rendered on behalf of the caretaker relatives of dependent children.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Funding for these services will commit the State to an additional \$12.5 million cost annually, unadjusted for inflation, all of which must be appropriated from the General Fund. I am convinced that the Medically Needy Program included in my budget recommendation addresses the requirements of that portion of our State's population most in need of assistance. These include children, pregnant women who need proper prenatal care, and the elderly. Given other important priorities competing for General Fund monies, caretaker relatives of dependent children should not, at this time, be covered under this program.

Finally, in an effort to safeguard against a federal budget cap or other reductions in federal Medicaid reimbursements to the States, I am recommending that the establishment and continuation of the Medically Needy Program be made contingent upon the availability of a minimum 40% federal financial participation for payments made from the medical assistance recipient account. Budget projections for federal fiscal years 1987 and 1988 reportedly impose a cap at the prior year expenditure levels for the Medically Needy Program. This could create a serious problem in fiscal year 1987 in that the federal fiscal year 1986 expenditures under New Jersey's program would only reflect six months of medically needy expenditure experience. Under this scenario, federal reimbursement in State fiscal year 1987 would only cover \$28.5 million of the \$57.1 million one-half share of the cost of the program, which the federal government would normally be expected to bear. We can only afford to continue this program in New Jersey if the federal government pays its fair share of the cost.

Accordingly, I herewith return Assembly Bill No. 608 (2nd OCR) and recommend that it be amended as follows:

- | | |
|--|--|
| <u>Page 3, Section 1, Lines 81-82:</u> | Delete in their entirety. |
| <u>Page 3, Section 1, Line 83:</u> | Delete "(iv)" insert "(iii)" |
| <u>Page 3, Section 1, Line 84:</u> | Delete "(v)" insert "(iv)" |
| <u>Page 4, Section 1, Line 120:</u> | After "women" delete "," insert "and" |
| <u>Page 4, Section 1, Lines 121-122:</u> | Delete ", and caretaker relatives of dependent children" |

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 8, Section 2, Line 127:

Delete "and caretaker relatives"

Page 14, Section 4, Lines 1-5:

On line 1 after "4. (New Section)" delete
in entirety;
Delete lines 2-5 in their entirety and
insert:

"The establishment and continuation of this medically
needy program is contingent upon the availability
of a minimum 40% federal financial participation for
payments made from the medical assistance recipient
account."

Respectfully,

/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel



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OFFICE OF THE GOVERNOR
NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956

TRENTON, N.J. 08625

Release: MON., NOV. 25, 1985

Governor Thomas H. Kean today signed legislation establishing an \$84 million program to extend medical help to New Jersey residents designated as "medically needy" and unable to afford the cost of health care.

The Governor signed the bill, A-608, sponsored by Assemblyman Thomas Deverin, D-Middlesex, at a public ceremony in his office. An identical Senate bill was sponsored by Senator C. Louis Bassano, R-Union.

"The signing of this legislation culminates more than two years of effort," Kean said. "The medically needy program was a part of my recommendations to the Legislature in my annual messages for the past two years."

The legislation creates new eligibility standards for the medically needy to qualify for the Medicaid program. Medical assistance would be provided for senior citizens, pregnant women, the blind and disabled, and those whose incomes are no greater than 133 percent of the current public welfare standard, those whose liquid assets are under \$3,000 for a single person and \$4,500 for a couple, and those who can demonstrate their incomes are insufficient to meet medical costs.

It has been estimated some 280,000 persons will meet the new eligibility standards.

- more -

The program, effective in April, is estimated to cost \$84 million in fiscal 1987, with \$27.8 million coming from the Casino Revenue Fund to support the senior citizen and disabled portion of the program; \$14.5 million from the General Fund, and \$42.3 million in Federal matching funds.

"The cost of quality medical care has exceeded the ability of many people to withstand, despite the need for such care," Kean said. "As a result, individuals with health problems simply live with those problems, suffer the difficulty and pain, and continue their daily lives the best they can."

"With this legislation, we can now extend help to those in need --- to senior citizens and the disabled, to youngsters, and to those in high risk categories," the Governor said. "For many, it will be their first opportunity to receive the kind of medical care others who are most fortunate can receive."

Kean said it has been estimated that there are 90,000 medically needy aged persons; 100,000 medically needy children; 50,000 medically needy adults, and 12,500 medically needy disabled and blind persons.

"These numbers demonstrate clearly and convincingly the need for this legislation," Kean said. "Nearly 300,000 of our fellow citizens are going without minimum basic health care in many instances."

Under the program, recipients will receive aid for such services as laboratory tests, home health care, physical therapy, and diagnostic and rehabilitative services.

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