

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

**50-29-01. Definitions.**

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.

**50-29-02. Duties of the department.**

The department shall:

1. Prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants, when adjusted gross income or loss means the adjusted gross income or loss as computed for an individual for federal income tax purposes under the Internal Revenue Code, based on the lower of either:
  - a. The previous one year of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed, from the year prior to that year, less any earned or unearned income on the tax return, plus any current earned or unearned income; or
  - b. The average of the previous three years of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed or the business has been in existence for fewer than three years, from the federal income tax returns from the previous three years that have been filed for the business, less the average of earned or unearned income for each of the years for which federal income tax returns have been filed, plus any current earned or unearned income.

If the most recently available federal income tax return does not accurately predict income because the business has been recently established, has been terminated, has been subjected to a severe change such as an uninsured loss or a decrease or increase in the size of the operation, income statements or any other reliable information may be used to compute self-employment income;

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.

**50-29-03. Duties of county agency.**

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.

**50-29-04. Plan requirements.**

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 net income eligibility limit 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.

**50-29-05. Limitations of chapter.**

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.

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

The department may accept any gift, grant, or donation, whether conditional or unconditional, for the purpose of providing funds for the children's health insurance program. The department may contract with public or private entities and may expend any moneys available to the department to obtain matching funds for the purposes of this chapter. The department shall seek grants from the academy for health research and health policy state coverage initiative and from any other entity that may award such grants. All moneys received as a gift, grant, or donation under this section are appropriated as a standing and continuing appropriation to the department for the purpose of providing funds for the children's health insurance program.