

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 212**

**Representatives Fraizer, Liston**

**Cosponsors: Representatives Crossman, O'Brien, Carfagna, Skindell, Lightbody,  
Weinstein, Lepore-Hagan, Blackshear, Miller, A.**

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**A BILL**

To amend sections 3701.021, 3701.022, and 3701.023 1  
of the Revised Code to expand eligibility for 2  
the Program for Medically Handicapped Children 3  
to individuals up to age 26. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3701.021, 3701.022, and 3701.023 5  
of the Revised Code be amended to read as follows: 6

**Sec. 3701.021.** (A) The director of health shall adopt, in 7  
accordance with Chapter 119. of the Revised Code, such rules as 8  
are necessary to carry out sections 3701.021 to 3701.0210 of the 9  
Revised Code, including, but not limited to, rules to establish 10  
the following: 11

(1) ~~Medical~~ Subject to division (D) of this section, 12  
medical and financial eligibility requirements for the program 13  
for medically handicapped children; 14

(2) Subject to division (C) of this section, eligibility 15  
requirements for providers who provide goods and services for 16  
the program for medically handicapped children; 17

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A) (2) of this section;	18 19 20
(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;	21 22 23 24
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	25 26
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A) (2) and (3) of section 3701.024 of the Revised Code;	27 28 29 30 31
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	32 33 34
(8) Criteria for payment of approved providers who provide goods and services for medically handicapped children;	35 36
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	37 38 39 40
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	41 42 43 44
(11) Terms of appointment for members of the medically	45

handicapped children's medical advisory council created in 46  
section 3701.025 of the Revised Code; 47

(12) Eligibility requirements for the hemophilia program, 48  
including income and hardship requirements; 49

(13) If a manufacturer discount program is established 50  
under division (J) (1) of section 3701.023 of the Revised Code, 51  
procedures for administering the program, including criteria and 52  
other requirements for participation in the program by 53  
manufacturers of drugs and nutritional formulas. 54

(B) The department of health shall develop a manual of 55  
operational procedures and guidelines for the program for 56  
medically handicapped children to implement sections 3701.021 to 57  
3701.0210 of the Revised Code. 58

(C) A medicaid provider, as defined in section 5164.01 of 59  
the Revised Code, is eligible to be a provider of the same goods 60  
and services for the program for medically handicapped children 61  
that the provider is approved to provide for the medicaid 62  
program and the director shall approve such a provider for 63  
participation in the program for medically handicapped children. 64

(D) In establishing medical and financial eligibility 65  
requirements for the program for medically handicapped children, 66  
the director of health shall not, on or after July 1, 2022, 67  
specify an age restriction that excludes from eligibility an 68  
individual who is less than twenty-one years of age or is any of 69  
the following: 70

(1) Beginning on July 1, 2022, less than twenty-two years 71  
of age; 72

(2) Beginning on July 1, 2023, less than twenty-three 73  
years of age; 74

<u>(3) Beginning on July 1, 2024, less than twenty-four years</u>	75
<u>of age;</u>	76
<u>(4) Beginning on July 1, 2025, less than twenty-five years</u>	77
<u>of age;</u>	78
<u>(5) Beginning on July 1, 2026, less than twenty-six years</u>	79
<u>of age.</u>	80
<b>Sec. 3701.022.</b> As used in sections 3701.021 to 3701.0210	81
of the Revised Code:	82
(A) "Medically handicapped child" means an Ohio resident	83
<del>under twenty one years of age</del> <u>who meets the age requirements set</u>	84
<u>forth in division (D) of section 3701.021 of the Revised Code</u>	85
who suffers primarily from an organic disease, defect, or a	86
congenital or acquired physically handicapping and associated	87
condition that may hinder the achievement of normal growth and	88
development.	89
(B) "Provider" means a health professional, hospital,	90
medical equipment supplier, and any individual, group, or agency	91
that is approved by the department of health pursuant to	92
division (C) of section 3701.023 of the Revised Code and that	93
provides or intends to provide goods or services to a child who	94
is eligible for the program for medically handicapped children.	95
(C) "Service coordination" means case management services	96
provided to medically handicapped children that promote	97
effective and efficient organization and utilization of public	98
and private resources and ensure that care rendered is family-	99
centered, community-based, and coordinated.	100
(D) (1) "Third party" means any person or government entity	101
other than the following:	102

(a) A medically handicapped child participating in the	103
program for medically handicapped children or the child's parent	104
or guardian;	105
(b) The department or any program administered by the	106
department, including the "Maternal and Child Health Block	107
Grant," Title V of the "Social Security Act," 95 Stat. 818	108
(1981), 42 U.S.C.A. 701, as amended;	109
(c) The "caring program for children" operated by the	110
nonprofit community mutual insurance corporation.	111
(2) "Third party" includes all of the following:	112
(a) Any trust established to benefit a medically	113
handicapped child participating in the program or the child's	114
family or guardians, if the trust was established after the date	115
the medically handicapped child applied to participate in the	116
program;	117
(b) That portion of a trust designated to pay for the	118
medical and ancillary care of a medically handicapped child, if	119
the trust was established on or before the date the medically	120
handicapped child applied to participate in the program;	121
(c) The program awarding reparations to victims of crime	122
established under sections 2743.51 to 2743.72 of the Revised	123
Code.	124
(E) "Third-party benefits" means any and all benefits paid	125
by a third party to or on behalf of a medically handicapped	126
child participating in the program or the child's parent or	127
guardian for goods or services that are authorized by the	128
department pursuant to division (B) or (D) of section 3701.023	129
of the Revised Code.	130

(F) "Hemophilia program" means the hemophilia program the department of health is required to establish and administer under section 3701.029 of the Revised Code.

**Sec. 3701.023.** (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the director of health pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident ~~under twenty one years of age~~, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition if the resident is less than twenty-one years of age or is any of the following:

<u>(1) Beginning on July 1, 2022, less than twenty-two years</u>	161
<u>of age;</u>	162
<u>(2) Beginning on July 1, 2023, less than twenty-three</u>	163
<u>years of age;</u>	164
<u>(3) Beginning on July 1, 2024, less than twenty-four years</u>	165
<u>of age;</u>	166
<u>(4) Beginning on July 1, 2025, less than twenty-five years</u>	167
<u>of age;</u>	168
<u>(5) Beginning on July 1, 2026, less than twenty-six years</u>	169
<u>of age.</u>	170
(C) The department of health shall review the applications	171
of health professionals, hospitals, medical equipment suppliers,	172
and other individuals, groups, or agencies that apply to become	173
providers. The department shall enter into a written agreement	174
with each applicant who is determined, pursuant to the	175
requirements set forth in rules adopted under division (A) (2) of	176
section 3701.021 of the Revised Code, to be eligible to be a	177
provider in accordance with the provider agreement required by	178
the medicaid program. No provider shall charge a medically	179
handicapped child or the child's parent or guardian for services	180
authorized by the department under division (B) or (D) of this	181
section.	182
The department, in accordance with rules adopted under	183
division (A) (3) of section 3701.021 of the Revised Code, may	184
disqualify any provider from further participation in the	185
program for violating any requirement set forth in rules adopted	186
under division (A) (2) of that section. The disqualification	187
shall not take effect until a written notice, specifying the	188
requirement violated and describing the nature of the violation,	189

has been delivered to the provider and the department has 190  
afforded the provider an opportunity to appeal the 191  
disqualification under division (H) of this section. 192

(D) The department of health shall evaluate applications 193  
from city and general health districts and approved physician 194  
providers for authorization to provide treatment services, 195  
service coordination, and related goods to children determined 196  
to be eligible for the program for medically handicapped 197  
children pursuant to division (A) of this section. The 198  
department shall authorize necessary treatment services, service 199  
coordination, and related goods for each eligible child in 200  
accordance with an individual plan of treatment for the child. 201  
As an alternative, the department may authorize payment of 202  
health insurance premiums on behalf of eligible children when 203  
the department determines, in accordance with criteria set forth 204  
in rules adopted under division (A) (9) of section 3701.021 of 205  
the Revised Code, that payment of the premiums is cost- 206  
effective. 207

(E) The department of health shall pay, from 208  
appropriations to the department, any necessary expenses, 209  
including but not limited to, expenses for diagnosis, treatment, 210  
service coordination, supportive services, transportation, and 211  
accessories and their upkeep, provided to medically handicapped 212  
children, provided that the provision of the goods or services 213  
is authorized by the department under division (B) or (D) of 214  
this section. Money appropriated to the department of health may 215  
also be expended for reasonable administrative costs incurred by 216  
the program. The department of health also may purchase 217  
liability insurance covering the provision of services under the 218  
program for medically handicapped children by physicians and 219  
other health care professionals. 220

Payments made to providers by the department of health 221  
pursuant to this division for inpatient hospital care, 222  
outpatient care, and all other medical assistance furnished to 223  
eligible recipients shall be made in accordance with rules 224  
adopted by the director of health pursuant to division (A) of 225  
section 3701.021 of the Revised Code. 226

The departments of health and medicaid shall jointly 227  
implement procedures to ensure that duplicate payments are not 228  
made under the program for medically handicapped children and 229  
the medicaid program and to identify and recover duplicate 230  
payments. 231

(F) At the time of applying for participation in the 232  
program for medically handicapped children, a medically 233  
handicapped child or the child's parent or guardian shall 234  
disclose the identity of any third party against whom the child 235  
or the child's parent or guardian has or may have a right of 236  
recovery for goods and services provided under division (B) or 237  
(D) of this section. The department of health shall require a 238  
medically handicapped child who receives services from the 239  
program or the child's parent or guardian to apply for all 240  
third-party benefits for which the child may be eligible and 241  
require the child, parent, or guardian to apply all third-party 242  
benefits received to the amount determined under division (E) of 243  
this section as the amount payable for goods and services 244  
authorized under division (B) or (D) of this section. The 245  
department is the payer of last resort and shall pay for 246  
authorized goods or services, up to the amount determined under 247  
division (E) of this section for the authorized goods or 248  
services, only to the extent that payment for the authorized 249  
goods or services is not made through third-party benefits. When 250  
a third party fails to act on an application or claim for 251

benefits by a medically handicapped child or the child's parent 252  
or guardian, the department shall pay for the goods or services 253  
only after ninety days have elapsed since the date the child, 254  
parents, or guardians made an application or claim for all 255  
third-party benefits. Third-party benefits received shall be 256  
applied to the amount determined under division (E) of this 257  
section. Third-party payments for goods and services not 258  
authorized under division (B) or (D) of this section shall not 259  
be applied to payment amounts determined under division (E) of 260  
this section. Payment made by the department shall be considered 261  
payment in full of the amount determined under division (E) of 262  
this section. Medicaid payments for persons eligible for the 263  
medicaid program shall be considered payment in full of the 264  
amount determined under division (E) of this section. 265

(G) The department of health shall administer a program to 266  
provide services to Ohio residents who are twenty-one or more 267  
years of age who have cystic fibrosis and who meet the 268  
eligibility requirements established in rules adopted by the 269  
director of health pursuant to division (A) (7) of section 270  
3701.021 of the Revised Code, subject to all provisions of this 271  
section, but not subject to section 3701.024 of the Revised 272  
Code. 273

(H) The department of health shall provide for appeals, in 274  
accordance with rules adopted under section 3701.021 of the 275  
Revised Code, of denials of applications for the program for 276  
medically handicapped children under division (A) or (D) of this 277  
section, disqualification of providers, or amounts paid under 278  
division (E) of this section. Appeals under this division are 279  
not subject to Chapter 119. of the Revised Code. 280

The department may designate ombudspersons to assist 281

medically handicapped children or their parents or guardians, 282  
upon the request of the children, parents, or guardians, in 283  
filing appeals under this division and to serve as children's, 284  
parents', or guardians' advocates in matters pertaining to the 285  
administration of the program for medically handicapped children 286  
and eligibility for program services. The ombudspersons shall 287  
receive no compensation but shall be reimbursed by the 288  
department, in accordance with rules of the office of budget and 289  
management, for their actual and necessary travel expenses 290  
incurred in the performance of their duties. 291

(I) The department of health, and city and general health 292  
districts providing service coordination pursuant to division 293  
(A) (2) of section 3701.024 of the Revised Code, shall provide 294  
service coordination in accordance with the standards set forth 295  
in the rules adopted under section 3701.021 of the Revised Code, 296  
without charge, and without restriction as to economic status. 297

(J) (1) The department of health may establish a 298  
manufacturer discount program under which a manufacturer of a 299  
drug or nutritional formula is permitted to enter into an 300  
agreement with the department to provide a discount on the price 301  
of the drug or nutritional formula distributed to medically 302  
handicapped children participating in the program for medically 303  
handicapped children. The program shall be administered in 304  
accordance with rules adopted under section 3701.021 of the 305  
Revised Code. 306

(2) If a manufacturer enters into an agreement with the 307  
department as described in division (J) (1) of this section, the 308  
manufacturer and the department may negotiate the amount and 309  
terms of the discount. 310

(3) In lieu of establishing a discount program as 311

described in division (J) (1) of this section, the department and 312  
a manufacturer of a drug or nutritional formula may discuss a 313  
donation of drugs, nutritional formulas, or money by the 314  
manufacturer to the department. 315

(K) As used in this division "209(b) option" has the same 316  
meaning as in section 5166.01 of the Revised Code. 317

The program for medically handicapped children and the 318  
program the department of health administers pursuant to 319  
division (G) of this section shall continue to assist 320  
individuals who have cystic fibrosis and are enrolled in those 321  
programs in qualifying for medicaid under the spenddown process 322  
in the same manner it assists such individuals ~~on the effective~~ 323  
~~date of this amendment~~ September 29, 2015, regardless of whether 324  
the department of medicaid continues to implement the 209(b) 325  
option. 326

**Section 2.** That existing sections 3701.021, 3701.022, and 327  
3701.023 of the Revised Code are hereby repealed. 328