

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Originating**

### **House Bill 3136**

BY DELEGATES HOUSEHOLDER, HARDY, BUTLER,

ESPINOSA, ELLINGTON AND CRISS

[Originating in the Committee on Finance, February

21, 2019.]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a  
2 new section, designated §9-8-2a, relating to requiring all able-bodied adults receiving  
3 Medicaid benefits to be employed or participating and complying with the requirements of  
4 a work, education, or volunteer program for at least 20 hours per week upon the issuance  
5 to the state of a waiver from the Centers for Medicare and Medicaid Services, United  
6 States Department of Health and Human Services, for a demonstration project under  
7 section 1115(a) of the Social Security Act to implement the requirements of this law,  
8 generally.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 8. ELIGIBILITY AND FRAUD REQUIREMENTS FOR PUBLIC ASSISTANCE.**

### **§9-8-2a. Work Requirements – Medicaid.**

1 (a) The Legislature finds that an individual's health and wellness are determined by a  
2 variety of factors, in addition to high-quality health care, and that factors such as education,  
3 community engagement, and work can contribute in a positive manner. The Legislature further  
4 finds that a demonstration project creating incentives for Medicaid beneficiaries to participate in  
5 such activities would promote the statutory objectives of the Medicaid program.

6 (b) All able-bodied adults receiving Medicaid benefits shall be employed or participating  
7 and complying with the requirements of a work, education, or volunteer program for at least 20  
8 hours per week: *Provided*, That further exemptions may apply and shall be determined in  
9 accordance with federal law: *Provided, however*, That any such exemptions may not exceed  
10 those granted by federal law.

11 (c) An applicant shall be deemed as complying with the requirements of a work, education,  
12 or volunteer program if any of the following requirements are satisfied:

13 (1) Working at least 20 hours per week, averaged monthly, or 80 hours a month;

14 (2) Participating in, and complying with, the requirements of a work force training program  
15 of 20 hours per week, as determined by the department in legislative rule;

16 (3) Volunteering 20 hours a week, as determined by the department in legislative rule;

17 (4) Any combination of working, volunteering and/or participating in a work program for a  
18 total of 20 hours per week, as determined by the department in legislative rule; or

19 (5) Participating in, and complying with, a Work Program or Workfare Program as set out  
20 in 7 C.F.R. 273.24(a)(3) and (4).

21 (d) As determined by the department, if a recipient would have worked an average of 20  
22 hours per week but missed some work for good cause, the recipient is considered to have met  
23 the work requirement if the absence from work is temporary and the recipient retains his or her  
24 job. "Working" includes work in exchange for money, work in exchange for goods or services ("in  
25 kind" work), or unpaid work that has been verified as determined by the department in legislative  
26 rule. "Good cause" includes circumstances beyond the household's control, such as, but not  
27 limited to, illness, illness of another household member requiring the presence of the member, a  
28 household emergency, natural disaster, a declared state of emergency due to inclement weather,  
29 or the unavailability of transportation.

30 (e) The department shall identify and implement cost control measures to contribute to the  
31 long-term sustainability of the state Medicaid plan. Any such measures may not place additional  
32 work requirements beyond those set forth in this section and shall be otherwise consistent with  
33 the requirements of this section and applicable federal law.

34 (f) The department shall make every effort, including preparing and submitting an  
35 application as specified in 42 C.F.R. 431.412, to obtain a waiver from the Centers for Medicare  
36 and Medicaid Services, United States Department of Health and Human Services ("CMS"), for a  
37 demonstration project under section 1115(a) of the Social Security Act to implement the  
38 requirements of this section. The department shall further make every effort to extend any  
39 demonstration project waiver obtained from CMS.

40 (g) The Medicaid eligibility requirements in subsection (b) are not enforceable until the  
41 effective date of a waiver received from CMS.

42 (h) The department shall propose legislative rules in accordance with the provisions of this  
43 code for a plan for implementation of the requirements set forth in this section.

44 (i) The department shall provide to the Legislative Oversight Committee on Health and  
45 Human Resources Accountability a copy of all monitoring and compliance documentation  
46 provided to CMS as required under any waiver.

47 (j) The department shall consult with the appropriate legal counsel when preparing any  
48 application for a waiver for a demonstration project, any application for extension of any such  
49 waiver, and any other rules or guidance prepared to implement the requirements of this section.

NOTE: The purpose of this bill is to add language to the West Virginia Code directing the State Department of Health & Human Resources to apply for a federal waiver to implement Medicaid Work Requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.