WEST virginia legislature

2021 regular session

Introduced

House Bill 2127

By Delegates Fleischauer and Walker

[Introduced February 10, 2021; Referred to the Committee on Health and Human Resources then Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-28, relating to the state’s Medicaid Home and Community-Based Services Intellectual/Developmental Disability Waiver; requiring the West Virginia Bureau for Medical Services to file a request with the Centers for Medicare & Medicaid Services to reinstate the terms of the state’s amended Intellectual/Developmental Disability Waiver that was approved and in place prior to July 1, 2017; and requiring the bureau to seek legislative approval before filing a future request with the Centers for Medicare & Medicaid Services to amend or renew an Intellectual/Developmental Disability Waiver in a manner that alters the scope or nature of services provided under a current waiver.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-28. I/DD Medicaid Waiver Requirements for Amendments.

(a) *Definitions. --* For the purposes of this section:

(1) “2010 I/DD Waiver” refers to West Virginia’s Intellectual/Developmental Disability Waiver that was approved by the Centers for Medicare & Medicaid Services and in effect prior to July 1, 2017, including the amendments to the waiver that were requested and became effective on July 1, 2011.

(2) “Commissioner” refers to the Commissioner for the West Virginia Bureau for Medical Services.

(3) “I/DD Waiver” means an Intellectual/Developmental Disability Waiver approved by the Centers for Medicare & Medicaid Services as part of the Medicaid Home and Community-Based Services waiver program, authorized by §1915(c) of the Social Security Act (42 USCS §1396, *et seq.*). The “I/DD Waiver” is a federally issued Medicaid waiver, which authorizes the state to provide Medicaid-funded services to individuals with intellectual and/or developmental disabilities in the community, rather than in intermediate care facilities or other more restrictive settings.

(b) *Amendment of 2018 I/DD Waiver. --*

On or before April 1, 2021, the commissioner shall file a request with the Centers for Medicare & Medicaid Services to amend the state’s current I/DD Waiver in such a manner as to reinstate and implement all of the terms of the state’s 2010 I/DD Waiver. In filing the request, the commissioner must comply with all applicable federal agency requirements.

(c) *Legislative Approval for Future Amendments to I/DD Waiver.--*

(1) Effective April 1, 2021, the commissioner shall submit a proposal to the Legislature and receive legislative approval before the commissioner may file either of the following types of requests with the Centers for Medicare & Medicaid Services:

(A) A request to amend the state’s I/DD Waiver; or

(B) A request to renew the state’s I/DD Waiver in a manner that alters the scope or nature of services provided under a current I/DD Waiver.

(2) The proposal required by this subsection shall include the following information:

(A) The commissioner’s rationale and justification for requesting changes to the terms of a current I/DD Waiver;

(B) The estimated costs or savings to the state if the requested changes are approved by the federal agency; and

(C) A copy of the application to amend or renew the waiver that the commissioner intends to file with the federal agency.

(3) If both houses of the Legislature adopt a proposal submitted pursuant to this subsection as a concurrent resolution, the commissioner may submit the proposed application to the Centers for Medicare & Medicaid Services. If either house of the Legislature fails to adopt the proposal as a concurrent resolution, the department may not submit the proposal to the Centers for Medicare & Medicaid Services for consideration: *Provided*, That the commissioner is not required to receive legislative approval prior to filing the request required by subsection (b) of this section.

NOTE: The purpose of this bill is to require the West Virginia Bureau for Medical Services to file a request with the Centers for Medicare & Medicaid Services for an amendment to the current I/DD Waiver that will reinstate the terms of the amended waiver that was approved and in place prior to July 1, 2017; and to require the Bureau to seek legislative approval before filing a future request to amend or renew a waiver in a manner that alters the scope or nature of services provided under a current waiver.

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