

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5685

By Delegate Rohrbach

[Originating in the Committee on Finance; Reported

on February 23, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §9-5-34, relating to the state Medicaid program; adding requirement that the
3 Bureau for Medical Services submit certain waivers and plan amendments that grow total
4 program expenditures \$3 million or more beyond current expenses of the most recent
5 available fiscal year through the legislative rulemaking process; authorizing emergency
6 rules; and requiring the Bureau for Medical Services to study and provide reports to the
7 Legislature, including reports regarding the costs of the program and recommendations to
8 contain costs.

Be it enacted by the Legislature of West Virginia:

CHAPTER 9. HUMAN SERVICES.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-34. Medicaid program waivers and amendments; rulemaking requirement; reporting requirements.

1 (a) The Bureau for Medical Services shall study all benefits and eligibility provided by the
2 program in relation to all surrounding states, and the five states nationally with the lowest per
3 capita costs, every three years. For each benefit or eligibility that the West Virginia Medicaid
4 program offers which exceeds that of any of the listed states, the Bureau for Medical Services
5 must report the differential and offer a recommendation as to whether or not the agency supports
6 continuing that benefit and/or eligibility at the current threshold. A six-year projection for
7 expenditures for the identified benefit must be included in a report to the Legislature. The first
8 report shall be submitted no later than December 31, 2024, to the Joint Committee on Government
9 and Finance. Thereafter, the Bureau for Medical Services shall submit a report every three years.

10 (b) The Bureau for Medical Services shall submit a report by December 1 of each year to
11 the Joint Committee on Government and Finance that analyzes how to achieve a one percent
12 state match budget reduction from the previous fiscal year. An explanation must be provided with

13 each identified budget reduction item on the costs and benefits of such a program change. It is not
14 required that these proposals be acted upon by the Bureau or the Legislature.

15 (c) The Bureau for Medical Services shall undertake an annual study, in conjunction and
16 with support of any state government agency that may be impacted by state Medicaid program
17 funding, to determine if those functions can be financially covered by the state Medicaid program
18 or more efficiently covered by the state Medicaid program. Analysis shall be undertaken where
19 programs leveraging state Medicaid program funding have services evaluated to determine if they
20 are in excess of bottom quartile of United States. This report shall be submitted to the Joint
21 Committee on Government and Finance by December 1 with any recommendations concerning
22 state budgetary savings.

23 (d) The Bureau for Medical Services shall conduct a study to determine if existing waiver
24 programs have generated financial offsets as originally planned. This initial study must be
25 submitted to the Joint Committee on Government and Finance by December 1, 2024. This study
26 must be conducted before any reauthorization is submitted to the federal Centers for Medicare
27 and Medicaid Services.

28 (e) The Bureau for Medical Services shall study and submit a report to Joint Committee on
29 Government and Finance by July 1, 2025, concerning strategies that may be undertaken by the
30 state to mitigate the benefit cliff. The benefit cliff occurs when an increase in a worker's earned
31 income causes a disproportionately greater loss of critical public assistance healthcare benefits. A
32 cliff can be prompted by a modest raise or a worker taking a new job with higher pay, or by
33 someone rejoining the workforce after some time away.

34 (f) The Bureau for Medical Services shall submit to the Joint Committee on Government
35 and Finance, each year by December 1, a report on West Virginia's improper payment rate. The
36 Bureau must include in this report the following:

37 (1) The national average;

38 (2) Three states with the lowest improper payment rate;

39 (3) The amount of improper payment with breakdown of where these payments were made
40 and why; and

41 (4) Strategies on how to improve state improper payment rate.

42 (g) The Bureau for Medical Services shall develop a population health outcomes report
43 that quantifies the highest expenditure services, fastest growing expenditures, and areas
44 actuarially identified as having the greatest elasticity in driving down long-term expenditures. This
45 report shall provide where West Virginia ranks relative to other states, if available. The report shall
46 also quantify rates across demographics for obesity, diabetes, substance use disorder, heart
47 disease, cancer, infections following or during care, intrauterine substance exposure, neonatal
48 abstinence syndrome, dental health, diabetes, chronic obstructive pulmonary disease, and other
49 chronic conditions as determined a priority by the Secretary. This report shall be submitted to the
50 Joint Committee on Government and Finance by December 1 each year.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29E. LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY.

§16-29E-12. Medicaid program waivers and amendments.

1 (a) The Bureau for Medical Services shall submit Medicaid Waivers and State Plan
2 Amendments that grow total program expenditures \$3 million in state dollars or more beyond
3 current expenses of the most recent available fiscal year to the commission.

4 (b) Within 60 days of submission, the commission shall recommend to the bureau that:

5 (1) It proceeds with the submission of the Medicaid Waiver or State Plan Amendment;

6 (2) It should change the Medicaid Waiver or State Plan Amendment; or

7 (3) It withdraws the Medicaid Waiver or State Plan Amendment.

8 (c) The commission shall provide its recommendations to the Chairs of the Finance
9 committees.