WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 789

By Senators Tarr and Rucker

[Introduced February 14, 2024; referred  
to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-34, relating to Medicaid; adding requirement that Medicaid submit certain waivers and plan amendments over $3 million through the legislative rulemaking process; and requiring Medicaid to study and provide reports to the Legislature regarding the costs of the program and recommendations to contain costs.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

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

(a) Medicaid shall submit all Medicaid Waivers and State Plan Amendments that grow total program expenditures $3 million or more beyond current expenses of the most recent available fiscal year through legislative rulemaking and the broader Legislature for legislative approval. Any waiver or state plan that is currently under review as of the passage of this statute may proceed through approval but must be submitted through legislative rulemaking and the full body of the Legislature for approval. Any modifications that would take place as part of this approval process must be submitted to CMS as an amendment to the previous request.

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

(c) Medicaid shall submit a report by December 31 of each year to the Joint Committee on Government and Finance that analyzes how to achieve a one percent state match budget reduction from the previous fiscal year. An explanation must be provided with each identified budget reduction item on the costs and benefits of such a program change. It is not required that these proposals be acted upon by the Bureau or the Legislature.

(d) Medicaid shall undertake an annual study, in conjunction and with support of any state government agency that may be impacted by Medicaid funding, to determine if those functions can be financially covered by Medicaid or more efficiently covered by Medicaid. Analysis must be undertaken where programs leveraging Medicaid funding have services evaluated to determine if they are in excess of bottom quartile of United States. This report shall be submitted to the Joint Committee on Government and Finance by December 31 with any recommendations concerning state budgetary savings.

(e) Medicaid shall conduct a study to determine if existing waiver programs have generated financial offsets as originally planned. This initial study must be submitted to the Joint Committee on Government and Finance by December 31, 2024. This study must be conducted prior to any reauthorization is submitted to CMS.

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

(g) Medicaid shall submit to Joint Committee on Government and Finance, each year by December 31, a report on West Virginia's improper payment rate. Medicaid must include in this report the following:

(1) The national average;

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

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

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

(h) Medicaid shall develop a population health outcomes report that quantifies the highest expenditure services, fastest growing expenditures, and areas actuarially identified as having the greatest elasticity in driving down long-term expenditures. This report shall provide where West Virginia ranks relative to other states, if available. The report shall also quantify rates across demographics for obesity, diabetes, substance use disorder, heart disease, cancer, infections following or during care, intrauterine substance exposure, neonatal abstinence syndrome, dental health, diabetes, COPD, and other chronic conditions as determined a priority by the Commissioner. This report shall be submitted to the Joint Committee and Government and Finance by December 31 each year.

NOTE: The purpose of this bill is to require Medicaid to submit certain proposals with a $3 million or more impact through the rulemaking process, and requiring Medicaid to submit reports regarding program expenditures and recommendations regarding cost containment measures.

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