

# **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]

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 Medicaid; adding requirement that Medicaid submit certain  
 3 waivers and plan amendments over \$3 million through the legislative rulemaking process;  
 4 and requiring Medicaid to study and provide reports to the Legislature regarding the costs  
 5 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.**

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

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

17 (c) Medicaid shall submit a report by December 31 of each year to the Joint Committee on  
 18 Government and Finance that analyzes how to achieve a one percent state match budget

19 reduction from the previous fiscal year. An explanation must be provided with each identified  
20 budget reduction item on the costs and benefits of such a program change. It is not required that  
21 these proposals be acted upon by the Bureau or the Legislature.

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

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

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

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

42 (1) The national average;

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

44 (3) The amount of improper payment with breakdown of where these payments were made

45 and why; and  
46 (4) Strategies on how to improve state improper payment rate.  
47 (h) Medicaid shall develop a population health outcomes report that quantifies the highest  
48 expenditure services, fastest growing expenditures, and areas actuarially identified as having the  
49 greatest elasticity in driving down long-term expenditures. This report shall provide where West  
50 Virginia ranks relative to other states, if available. The report shall also quantify rates across  
51 demographics for obesity, diabetes, substance use disorder, heart disease, cancer, infections  
52 following or during care, intrauterine substance exposure, neonatal abstinence syndrome, dental  
53 health, diabetes, COPD, and other chronic conditions as determined a priority by the  
54 Commissioner. This report shall be submitted to the Joint Committee and Government and  
55 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.