

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Originating

House Bill 4727

(BY DELEGATES ELLINGTON, SUMMERS, LANE,
HOUSEHOLDER, SOBONYA, HILL, FAIRCLOTH, PERDUE,
PUSHKIN AND LONGSTRETH)

[Originating in the Committee on Health and
Human Resources; reported on February 23, 2016]

1 A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, and to
 2 amend and reenact §9-5-23 of said code, all relating to state plan amendments; requiring
 3 the filing of state plan amendments to the legislature; requiring state plan amendments to
 4 be filed with the legislative rule-making and review committee; requiring a state plan
 5 amendment by approved through the rule-making process.

Be it enacted by the Legislature of West Virginia:

1 That §9-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
 2 and that §9-5-23 of said code be amended and reenacted, all to read as follows:

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND
 RESPONSIBILITIES GENERALLY.**

§9-2-6. Powers of secretary.

1 (a) Within limits of state appropriations and federal grants and subject to provisions of
 2 state and federal laws and regulations, the secretary, in addition to all other powers, duties and
 3 responsibilities granted and assigned to that office in this chapter and elsewhere by law, is
 4 authorized to:

5 (1) Promulgate, amend, revise and rescind department rules respecting the organization
 6 and government of the department and the execution and administration of those powers, duties
 7 and responsibilities granted and assigned by this chapter and elsewhere by law to the department
 8 and the secretary.

9 (2) Promulgate, amend, revise and rescind department rules and regulations respecting
 10 qualifications for receiving the different classes of welfare assistance consistent with or permitted
 11 by federal laws, rules and policies, but not inconsistent with state law: *Provided*, That rules and
 12 policies respecting qualifications shall permit the expenditure of state funds to pay for care
 13 rendered in any birthing center licensed under the provisions of article two-e, chapter sixteen of
 14 this code by a licensed nurse midwife or midwife as this occupation is defined in section one,

15 article fifteen, chapter thirty of this code and which care is within the scope of duties for such
16 licensed nurse midwife or midwife as permitted by the provisions of section seven of said article.

17 (3) Obtain by purchase or lease grounds, buildings, office or other space, equipment,
18 facilities and services as may be necessary for the execution and administration of those powers,
19 duties and responsibilities granted and assigned by this chapter and elsewhere by law to the
20 department and the secretary.

21 (4) Sign and execute in the name of the state by the State Department of Health and
22 Human Resources any contract or agreement with the federal government or its agencies, other
23 states, political subdivisions of this state, corporations, associations, partnerships or individuals:
24 *Provided*, That the provisions of article three, chapter five-a are followed.

25 (5) Sign and execute a contract to implement professional health care, managed care,
26 actuarial and health care-related monitoring, quality review/utilization, claims processing and
27 independent professional consultant contracts for the Medicaid program: *Provided*, That the
28 provisions of article three, chapter five-a are followed: *Provided, however*, That a contract
29 awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains
30 in full force and effect and the secretary retains sole authority to review, approve and issue
31 changes to contracts issued under the former purchasing process, and is responsible for
32 challenges, disputes, protests and legal actions related to such contracts.

33 (6) Establish such special funds as may be required by the federal Social Security Act, as
34 amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of
35 the benefits and provisions thereof relating to the federal-state assistance and federal assistance
36 programs administered by the department and to make payments into and disbursements out of
37 any such special fund or funds in accordance with the requirements of the federal Social Security
38 Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state
39 law and the objects and purposes of this chapter. In addition, the State Department of Health and
40 Human Resources, through the secretary, is hereby authorized to accept any and all gifts or

41 grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys,
42 shall be placed in a separate fund and expended solely for the purpose of public assistance
43 programs. No part of this special fund shall revert to the General Revenue Funds of this state. No
44 expenses incurred pursuant to this special fund shall be a charge against the General Funds of
45 this state.

46 (7) Establish within the department an Office of Inspector General for the purpose of
47 conducting and supervising investigations and for the purpose of providing quality control for the
48 programs of the department. The Office of Inspector General shall be headed by the Inspector
49 General who shall report directly to the secretary. Neither the secretary nor any employee of the
50 department may prevent, inhibit or prohibit the Inspector General or his or her employees from
51 initiating, carrying out or completing any investigation, quality control review or other activity
52 oversight of public integrity by the Office of the Inspector General. The secretary shall place within
53 the Office of Inspector General any function he or she deems necessary. Qualification,
54 compensation and personnel practice relating to the employees of the Office of the Inspector
55 General, including that of the position of Inspector General, shall be governed by the classified
56 service provisions of article six, chapter twenty-nine of this code and rules promulgated
57 thereunder. The Inspector General shall supervise all personnel of the Office of Inspector
58 General.

59 (8) Provide at department expense a program of continuing professional, technical and
60 specialized instruction for the personnel of the department.

61 (9) Pay from available funds all or part of the reasonable expenses incurred by a person
62 newly employed by the department in moving his household furniture, effects and immediate
63 family from his or her place of residence in this state to his or her place of employment in this
64 state; and to pay from available funds all or part of the reasonable expenses incurred by a
65 department employee in moving his or her household furniture, effects and immediate family as
66 a result of a reassignment of the employee which is considered desirable, advantageous to and

67 in the best interests of the state, but no part of the moving expenses of any one such employee
68 shall be paid more frequently than once in twelve months or for any movement other than from
69 one place of employment in this state to another place of employment in this state.

70 (10) Establish a program to provide reimbursement to employees of the department whose
71 items of personal property, as defined by the department by policy, are damaged during the
72 course of employment or other work-related activity as a result of aggressive behavior by a client
73 or patient receiving services from the department: *Provided*, That such reimbursement is limited
74 to a maximum amount of \$250.00 per claim.

75 (11) Establish and maintain such institutions as are necessary for the temporary care,
76 maintenance and training of children and other persons.

77 (12) Prepare and submit state plans which will meet the requirements of federal laws,
78 rules governing federal-state assistance and federal assistance and which are not inconsistent
79 with state law.

80 (13) Organize within the department a Board of Review, consisting of a Chairman
81 appointed by the secretary and as many assistants or employees of the department as may be
82 determined by the secretary and as may be required by federal laws and rules respecting state
83 assistance, federal-state assistance and federal assistance, such Board of Review to have such
84 powers of a review nature and such additional powers as may be granted to it by the secretary
85 and as may be required by federal laws and rules respecting federal-state assistance and federal
86 assistance.

87 (14) Provide by rules review and appeal procedures within the Department of Health and
88 Human Resources as may be required by applicable federal laws and rules respecting state
89 assistance, federal-state assistance and federal assistance and as will provide applicants for, and
90 recipients of all, classes of welfare assistance an opportunity to be heard by the Board of Review,
91 a member thereof or individuals designated by the board, upon claims involving denial, reduction,
92 closure, delay or other action or inaction pertaining to public assistance.

93 (15) Provide by rules, consistent with requirements of applicable federal laws and rules,
94 application forms and application procedures for the various classes of public assistance.

95 (16) Provide locations for making applications for the various classes of public assistance.

96 (17) Provide a citizen or group of citizens an opportunity to file objections and to be heard
97 upon objections to the grant of any class of public assistance.

98 (18) Delegate to the personnel of the department all powers and duties vested in the
99 secretary, except the power and authority to sign contracts and agreements.

100 (19) Make such reports in such form and containing such information as may be required
101 by applicable federal laws and rules respecting federal-state assistance and federal assistance.

102 (20) Invoke any legal, equitable or special remedies for the enforcement of the provisions
103 of this chapter.

104 (b) The secretary shall propose rules for legislative approval in accordance with the
105 provisions of article three, chapter twenty-nine-a of this code implementing the Medicaid
106 Intellectual/Developmental Disabilities Waiver program. Before the secretary submits an
107 amendment to the Medicaid Intellectual/Developmental Disabilities Waiver program, the changes
108 shall be submitted to the legislative rule-making review committee.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-23. Bureau of Medical Services information.

1 (a) The Bureau of Medical Services shall publish all informational bulletins, health plan
2 advisories, and guidance published by the department concerning the Medicaid program on the
3 department’s website.

4 (b) The bureau shall publish all Medicaid state plan amendments and any related
5 correspondence within twenty-four hours of receipt of the correspondence submission to the
6 Centers for Medicare and Medicaid Services.

7 (c) The bureau shall publish all formal responses by the Centers for Medicare and
8 Medicaid Services regarding any state plan amendment on the department’s website within
9 twenty-four hours of receipt of the correspondence.

- 10 (d) The bureau shall submit a monthly report to the Joint Committee of Government and
11 Finance containing the effect of the changes to the Intellectual/Developmental Disability Waiver
12 adopted after July 1, 2015.

NOTE: The purpose of this bill is to require legislative oversight of the Intellectual/Developmental Disabilities Waiver Program.

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