

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2336**

BY DELEGATES FLEISCHAUER, MILLER, LONGSTRETH,

LAVENDER-BOWE AND WALKER

[Introduced January 11, 2019; Referred  
to the Committee on Health and Human Resources  
then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §9-5-27, relating to the state’s Medicaid Home and Community-Based  
 3 Services Intellectual/Developmental Disability Waiver; requiring the West Virginia Bureau  
 4 for Medical Services to file a request with the Centers for Medicare & Medicaid Services  
 5 to reinstate the terms of the state’s amended Intellectual/Developmental Disability Waiver  
 6 that was approved and in place prior to July 1, 2017; and requiring the bureau to seek  
 7 legislative approval before filing a future request with the Centers for Medicare & Medicaid  
 8 Services to amend or renew an Intellectual/Developmental Disability Waiver in a manner  
 9 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.**

### **§9-5-27. I/DD Medicaid Waiver Requirements for Amendments.**

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

2 (1) “2010 I/DD Waiver” refers to West Virginia’s Intellectual/Developmental Disability  
 3 Waiver that was approved by the Centers for Medicare & Medicaid Services and in effect prior to  
 4 July 1, 2018, including the amendments to the waiver that were requested and became effective  
 5 on July 1, 2011.

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

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

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

15 On or before April 1, 2019, the commissioner shall file a request with the Centers for  
16 Medicare & Medicaid Services to amend the state's current I/DD Waiver in such a manner as to  
17 reinstate and implement all of the terms of the state's 2010 I/DD Waiver. In filing the request, the  
18 commissioner must comply with all applicable federal agency requirements.

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

20 (1) Effective April 1, 2019, the commissioner shall submit a proposal to the Legislature  
21 and receive legislative approval before the commissioner may file either of the following types of  
22 requests with the Centers for Medicare & Medicaid Services:

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

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

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

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

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

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

33 (3) If both houses of the Legislature adopt a proposal submitted pursuant to this  
34 subsection as a concurrent resolution, the commissioner may submit the proposed application to  
35 the Centers for Medicare & Medicaid Services. If either house of the Legislature fails to adopt the  
36 proposal as a concurrent resolution, the department may not submit the proposal to the Centers  
37 for Medicare & Medicaid Services for consideration: *Provided*, That the commissioner is not  
38 required to receive legislative approval prior to filing the request required by subsection (b) of this  
39 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.