

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 688

FISCAL
NOTE

BY SENATOR TAKUBO

[Introduced February 21, 2022; referred
to the Committee on Banking and Insurance; and then
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §9-4F-1, §9-4F-2, §9-4F-3, §9-4F-4, §9-4F-5, §9-4F-6, §9-4F-7, §9-4F-8, and
 3 §9-4F-9, all relating to creating the Affordable Medicaid Buy-In Program; requiring the
 4 Department of Health and Human Resources to develop and administer the Affordable
 5 Medicaid Buy-In Plan; setting eligibility criteria and coverage requirements; specifying role
 6 and duties of the Department of Health and Human Resources; establishing an advisory
 7 council to the Affordable Medicaid Buy-In Program; defining terms; setting limitations of
 8 employers; requiring a full-cost option be available for individuals who do not meet
 9 financial qualifications; requiring rulemaking; and mandating application for a federal
 10 innovation waiver.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4F. THE AFFORDABLE MEDICAID BUY-IN PROGRAM.

§9-4F-1. Purpose.

1 The purpose of the Affordable Medicaid Buy-In Program is to establish a state public
 2 option through Medicaid to provide West Virginia residents with a choice of a high-quality, low-
 3 cost health insurance plan.

§9-4F-2. Definitions.

1 As used in this article:

2 “Affordable Medicaid Buy-In Plan” or “plan” means a state-administered, public option,
 3 health care coverage plan that leverages the Medicaid coverage structure;

4 “Copayment” means a fixed dollar amount that an Affordable Medicaid buy-in enrollee
 5 must pay directly to a health care provider or pharmacy for a service, visit or item;

6 “Deductible” means a fixed dollar amount that a person enrolled in the Affordable Medicaid
 7 buy-in plan may be required to pay during a benefit period before the plan begins payment for
 8 covered benefits;

9 “Department” means the Department of Health and Human Resources;

10 “Health care coverage premium cost” means the premium charged for health care
11 coverage that is available or currently provided to an individual;

12 “Health care provider” means any physical, mental or behavioral health provider, including
13 a hospital, physician, clinic and other health facility;

14 “Managed care organization” means an organization licensed or authorized through an
15 agreement among state entities to manage, coordinate and receive payment for the delivery of
16 specified services to enrolled members;

17 “Medicaid” means the joint federal-state health coverage program pursuant to Title 19 or
18 Title 21 of the federal Social Security Act, as amended, and the rules promulgated pursuant to
19 that act;

20 “Medicare” means coverage under Part A or Part B of Title 18 of the federal Social Security
21 Act, as amended, and the rules promulgated pursuant to that act;

22 “Premium” means the monthly amount that a plan enrollee must pay directly to the
23 managed care organization offering the enrollee’s plan for consideration of the plan’s coverage;
24 and

25 “Resident” means a person establishing intent to permanently reside in West Virginia.

§9-4F-3. The plan.

1 (a) By January 1, 2023, the department shall establish an Affordable Medicaid Buy-In Plan
2 and shall offer the plan for purchase by a resident:

3 (1) Who is ineligible for the following:

4 (A) Medicaid; and

5 (B) Medicare; and

6 (2) Whose employer has not disenrolled or denied the resident enrollment in employer-
7 sponsored health coverage on the basis that the resident would otherwise qualify for enrollment
8 in Affordable Medicaid buy-in coverage.

9 (b) The department shall establish benefits under the plan in accordance with federal and

10 state law to ensure that covered benefits include:

11 (1) Ambulatory patient services;

12 (2) Emergency services;

13 (3) Hospitalization;

14 (4) Maternity and newborn care;

15 (5) Mental health and substance use disorder services, including behavioral health

16 treatment;

17 (6) Prescription drugs;

18 (7) Rehabilitative and habilitative services and devices;

19 (8) Laboratory services;

20 (9) Preventive and wellness services, including reproductive health and chronic disease

21 management; and

22 (10) Pediatric services, including oral and vision care.

23 (c) For services and benefits provided under this section, the department may pursue any
24 available federal financial participation.

25 (d) The department shall coordinate the plan's enrollment and eligibility to maximize the
26 continuity of coverage between the plan, Medicaid and private health plans.

27 (e) Health care provider reimbursement rates shall be based on the Medicaid fee
28 schedule. Contingent upon available funds, the department may increase reimbursement rates
29 for health care providers, so long as these increases do not jeopardize the sustainability of
30 Medicaid or the plan.

31 (f) The plan shall be established in compliance with nondiscrimination mandates set forth
32 in the Constitution of West Virginia, the West Virginia Human Rights Act, and the federal Civil
33 Rights Act of 1964 and shall be available to residents irrespective of age, race, gender, national
34 origin, immigration status, disability, or geographic location.

35 (g) The plan shall be offered in the individual health insurance market, but shall not be

36 sold on the Health Insurance Marketplace.

37 (h) The plan shall be in the Platinum metal tier.

38 (i) The department shall establish an updated premium sliding scale for individuals under
39 200 percent of the federal poverty level who purchase the Medicaid Buy-In plan in its 1332 waiver
40 application. The sliding scale shall prioritize individuals transitioning from Medicaid coverage.

§9-4F-4. Administration.

1 (a) The department shall develop a plan for administering the plan that prioritizes
2 affordability for enrollees and provides opportunities to maximize federal dollars.

3 (b) The department shall:

4 (1) Establish an affordability scale for premiums and other cost-sharing fees, such as
5 copayments and deductibles, based on household income. The department shall offer discounted
6 premiums and cost-sharing fees in accordance with the affordability scale to residents eligible to
7 enroll in the plan: *Provided*, That the financial assistance is, at a minimum, offered to residents
8 with household incomes below 200 percent of the federal poverty level;

9 (2) Establish fair and reasonable premium rates that should be assessed to plan enrollees,
10 after an actuarial analysis, to ensure maximum access to coverage. Premiums imposed may be
11 set at a level sufficient to offset the costs of health benefits under the plan and related
12 administrative costs; and

13 (3) Enrollment periods and Special Enrollment Periods and qualifying life events will follow
14 the Affordable Care Act's calendar and provisions.

15 (c) The department may:

16 (1) Administer the plan through the managed care organizations under contract with the
17 State to provide Medicaid services and benefits; and

18 (2) Set the medical loss ratio for insurers offering the plan consistent with the ratio
19 applicable to Medicaid;

20 (d) The department shall:

- 21 (1) Establish a standardized benefit and cost sharing design for the plan; and
22 (2) Establish a method for procuring prescription drugs. This authority includes consulting
23 or contracting with other entities or states for combined purchasing power; and
24 (3) Seek viable opportunities to reduce costs of the plan to consumers and the general
25 fund: *Provided*, That such opportunities are consistent with the provisions of this article, do not
26 reduce eligibility or benefits for Medicaid enrollees and do not jeopardize federal financing for
27 medical assistance.

§9-4F-5. Financing.

- 1 (a) The department shall apply for a State Innovation Waiver under section 1332 of the
2 Patient Protection and Affordable Care Act. The state shall request the authority to allow
3 individuals who qualify for coverage on the Health Insurance Marketplace to use their Premium
4 Tax Credit to purchase the Medicaid Buy-In plan. Nothing in the waiver application shall prohibit
5 individuals and families from purchasing plans on the Marketplace.

- 6 (b) Individuals who do not qualify for federal financial assistance may purchase the plan
7 at full cost.

§9-4F-6. Enrollment.

- 1 The department and the West Virginia health insurance exchange shall coordinate efforts
2 and cooperate to establish a consumer outreach program to assist residents with enrolling in
3 Medicaid, the plan and qualified health plans offered through the exchange.

§9-4F-7. Advisory council.

- 1 (a) The Secretary of the Department of Health and Human Resources shall establish an
2 Affordable Medicaid Buy-In Program advisory council, to advise the department on
3 implementation, plan affordability, marketing, enrollment, outreach and evaluation of health care
4 access for residents enrolled in the plan. The advisory council consists of:

- 5 (1) The Secretary of the Department of Health and Human Resources;
6 (2) The Insurance Commissioner;

- 7 (3) Three consumer advocates;
- 8 (4) One health care provider;
- 9 (5) One representative from a Medicaid managed care organization;
- 10 (6) At least one public health expert with experience evaluating health data and utilization
 11 trends; and
- 12 (7) At least one researcher with experience in health care financing and administration.
- 13 (b) The Governor shall appoint the members identified in subdivisions (4) through (7) of
 14 subsection (a) of this section.

§9-4F-8. Rule-making authority.

1 The Secretary of the Department of Health and Human Resources shall propose
 2 emergency rules in accordance with the provisions of §29A-3-15 of this code to implement the
 3 provisions of this article. Thereafter, the secretary shall propose additional rules for legislative
 4 approval in accordance with the provisions of §29A-3-1 et seq. of this code as may be needed to
 5 administer and maintain the Affordable Medicaid Buy-In Program.

§9-4F-9. Limitation on employers.

1 An employer that offers employer-sponsored health coverage as of the effective date of
 2 this article may not disenroll or deny enrollment to a resident covered under the employer's
 3 employer-sponsored health coverage on the basis that the employer believes that the resident
 4 would qualify for plan coverage.

NOTE: The purpose of this bill is to create the Affordable Medicaid Buy-In Program. The bill requires the Department of Health and Human Resources to develop and administer the Affordable Medicaid Buy-In Plan. The bill establishes an advisory council to the Affordable Medicaid Buy-In 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.