

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2341

By Delegate Griffith

[Introduced January 11, 2023; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, relating to
 2 authorizing the Secretary of the Department of Health and Human Resources to
 3 implement a state-wide nutrition incentive program that encourages citizens who receive
 4 Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy,
 5 and locally grown food from eligible food items purchased at local farmer’s markets and
 6 participating grocers: and providing for an equal SNAP credit for the use of additional
 7 farmer market purchases up to \$40 a month.

Be it enacted by the Legislature of West Virginia:

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

§9-2-6. Powers of secretary.

8 (a) Within limits of state appropriations and federal grants and subject to provisions of state
 9 and federal laws and regulations, the secretary, in addition to all other powers, duties, and
 10 responsibilities granted and assigned to that office in this chapter and elsewhere by law, is
 11 ~~authorized to~~ may:

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

16 (2) Promulgate, amend, revise and rescind department rules and regulations respecting
 17 qualifications for receiving the different classes of welfare assistance consistent with or permitted
 18 by federal laws, rules and policies, but not inconsistent with state law: Provided, That rules and
 19 policies respecting qualifications shall permit the expenditure of state funds to pay for care
 20 rendered in any birthing center licensed under the provisions of §16-2E-1, *et seq.* of this code by a
 21 licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and which
 22 care is within the scope of duties for such licensed nurse midwife or midwife as permitted by the

23 ~~provisions of section seven of said article.~~

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

28 (4) Sign and execute in the name of the state by the State Department of Health and
29 Human Resources any contract or agreement with the federal government or its agencies, other
30 states, political subdivisions of this state, corporations, associations, partnerships, or individuals:
31 *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

32 (5) Sign and execute a contract to implement professional health care, managed care,
33 actuarial and health care-related monitoring, quality review/utilization, claims processing, and
34 independent professional consultant contracts for the Medicaid program: *Provided*, That the
35 provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract
36 awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in
37 full force and effect and the secretary retains sole authority to review, approve, and issue changes
38 to contracts issued under the former purchasing process, and is responsible for challenges,
39 disputes, protests, and legal actions related to such contracts.

40 (6) Establish such special funds as may be required by the federal Social Security Act, as
41 amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of
42 the benefits and provisions thereof relating to the federal-state assistance and federal assistance
43 programs administered by the department and to make payments into and disbursements out of
44 any such special fund or funds in accordance with the requirements of the federal Social Security
45 Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state
46 law and the objects and purposes of this chapter. In addition, the State Department of Health and
47 Human Resources, through the secretary, is hereby authorized to accept any and all gifts or
48 grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys,

49 shall be placed in a separate fund and expended solely for the purpose of public assistance
50 programs. No part of this special fund shall revert to the General Revenue Funds of this state. No
51 expenses incurred pursuant to this special fund shall be a charge against the General Funds of
52 this state.

53 (7) Establish within the department an Office of Inspector General for the purpose of
54 conducting and supervising investigations, performing inspections, evaluations, and review, and
55 providing quality control for the programs of the department. The Office of Inspector General shall
56 be headed by the Inspector General who shall report directly to the secretary. Neither the
57 secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector
58 General or his or her employees from initiating, carrying out, or completing any investigation,
59 inspection, evaluation, review or other activity oversight of public integrity by the Office of the
60 Inspector General. The secretary shall place within the Office of Inspector General any function he
61 or she deems necessary. Qualification, compensation, and personnel practice relating to the
62 employees of the Office of the Inspector General, including that of the position of Inspector
63 General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and
64 rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of
65 Inspector General.

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

68 (9) Pay from available funds all or part of the reasonable expenses incurred by a person
69 newly employed by the department in moving his household furniture, effects, and immediate
70 family from his or her place of residence in this state to his or her place of employment in this state;
71 and to pay from available funds all or part of the reasonable expenses incurred by a department
72 employee in moving his or her household furniture, effects, and immediate family as a result of a
73 reassignment of the employee which is considered desirable, advantageous to and in the best
74 interests of the state, but no part of the moving expenses of any one such employee shall be paid

75 more frequently than once in 12 months or for any movement other than from one place of
76 employment in this state to another place of employment in this state.

77 (10) Establish a program to provide reimbursement to employees of the department whose
78 items of personal property, as defined by the department by policy, are damaged during the course
79 of employment or other work-related activity as a result of aggressive behavior by a client or
80 patient receiving services from the department: *Provided*, That such reimbursement is limited to a
81 maximum amount of \$250 per claim.

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

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

87 (13) Organize within the department a Board of Review, consisting of a chairman
88 appointed by the secretary and as many assistants or employees of the department as may be
89 determined by the secretary and as may be required by federal laws and rules respecting state
90 assistance, federal-state assistance, and federal assistance, ~~such~~ the Board of Review to have
91 ~~such~~ powers of a review nature and such additional powers as may be granted to it by the
92 secretary and as may be required by federal laws and rules respecting federal-state assistance
93 and federal assistance.

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

100 (15) Provide by rules, consistent with requirements of applicable federal laws and rules,

101 application forms and application procedures for the various classes of public assistance.

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

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

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

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

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

111 (21) Require a provider, subgrantee, or other entity performing services on behalf of the
112 department to comply with all applicable laws, rules, and written procedures pertaining to the
113 program for which the entity is providing or coordinating services, including, but not limited to,
114 policy manuals, statements of work, program instructions, or other similar agreements. When
115 submitting a claim for payment, the entity shall certify that it has complied with all material
116 conditions for payment. Knowingly and intentionally submitting a claim or billing for services
117 performed in material violation of any law, rule, policy, or other written agreement shall constitute
118 fraud and the agreement for provision of services shall terminate. The entity shall be required to
119 repay the department for any payment under the program for which the provider was not entitled,
120 regardless of whether the incorrect payment was the result of department error, fraud, or other
121 cause. A demand for repayment or termination of agreement for provision of services shall be
122 subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions of
123 this subsection do not apply to fraud in the Medicaid program.

124 (22) Develop a data analytics pilot program to identify potential fraud and help guide policy
125 objectives to eliminate future fraud. The secretary shall submit a report containing the pilot
126 program's results and recommendations to the Joint Committee on Government and Finance no

127 later than December 31, 2020.

128 (23) Implement a state-wide nutrition incentive program that encourages citizens who
129 receive Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy,
130 and locally grown food by providing one-to-one matching funds for Supplemental Nutrition
131 Assistance Program-eligible food items purchased at local farmer's markets and participating
132 grocers. The program shall provide that for every dollar spent on Supplemental Nutrition
133 Assistance Program-eligible food items an equal credit shall be given for the use of additional
134 farmer market purchases up to \$40 a month. The secretary shall consult with the West Virginia
135 Farmers Market Association and the Commissioner of Agriculture for the sources of fresh, healthy,
136 and locally grown food in the implementation and operation of this program.

137 (b) The secretary shall annually allocate Child Protective Services workers by districts of
138 the Bureau for Social Services and report the allocation process to the Legislative Oversight
139 Commission on Health and Human Resources Accountability by July 1 each year.

NOTE: The purpose of this bill is to authorize the Secretary of the Department of Health and Human Resources to implement a state-wide nutrition incentive program that encourages citizens who receive Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy, and locally grown food from eligible food items purchased at local farmer's markets and participating grocers, and providing for an equal SNAP credit for the use of additional farmer market purchases up to \$40 a month.

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