

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 274

BY SENATORS TRUMP AND WOELFEL

[Passed March 10, 2022; in effect from passage]

1 AN ACT to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the secretary of the Department of Health and Human Resources to allocate
3 Child Protective Services workers by the Bureau of Social Services' district annually; and
4 reporting this allocation process to the Legislative Oversight Commission on Health and
5 Human Resources Accountability annually.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. COMMISSIONER OF HEALTH AND 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, may:

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

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

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

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

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

32 (6) Establish such special funds as may be required by the federal Social Security Act, as
33 amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of
34 the benefits and provisions thereof relating to the federal-state assistance and federal assistance
35 programs administered by the department and to make payments into and disbursements out of
36 any such special fund or funds in accordance with the requirements of the federal Social Security
37 Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state
38 law and the objects and purposes of this chapter. In addition, the Department of Health and
39 Human Resources, through the secretary, is hereby authorized to accept any and all gifts or
40 grants, whether in money, land, services, or materials, which gift or gifts, if in the form of moneys,
41 shall be placed in a separate fund and expended solely for the purpose of public assistance

42 programs. No part of this special fund may revert to the general revenue funds of this state. No
43 expenses incurred pursuant to this special fund may be a charge against the general funds of this
44 state.

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

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

60 (9) Pay from available funds all or part of the reasonable expenses incurred by a person
61 newly employed by the department in moving his household furniture, effects, and immediate
62 family from his or her place of residence in this state to his or her place of employment in this
63 state; and to pay from available funds all or part of the reasonable expenses incurred by a
64 department employee in moving his or her household furniture, effects, and immediate family as
65 a result of a reassignment of the employee which is considered desirable, advantageous to and
66 in the best interests of the state, but no part of the moving expenses of any one such employee

67 may be paid more frequently than once in 12 months or for any movement other than from one
68 place of employment in this state to another place of employment in this state.

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

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

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

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

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

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

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

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

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

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

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

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

115 (22) Develop a data analytics pilot program to identify potential fraud and help guide policy
116 objectives to eliminate future fraud. The secretary shall submit a report containing the pilot
117 program's results and recommendations to the Joint Committee on Government and Finance no
118 later than December 31, 2020.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2022.

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Governor