

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3485

By Delegates Householder, Jeffries, Gearheart, and

Espinosa

[Introduced February 14, 2023; Referred to the
Committee on Health and Human Resources then the
Judiciary]

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, §9-
 3 4F-9, §9-4F-10, and §9-4F-11, all relating to the creation of the Medicaid Sustainability Act
 4 of 2023; providing for a short title; providing for a purpose; providing for hospital
 5 presumptive eligibility; creating a fraud lockout; creating automatic renewal and
 6 prepopulated forms; providing for biannual and quarterly redeterminations; providing for a
 7 mandatory job search; creating work requirements; providing for state plan amendments
 8 and waivers; providing for severability; and creating an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4F. MEDICAID SUSTAINABILITY ACT OF 2023.

§9-4F-1. Short title.

1 This article shall be known and may be cited as the "Medicaid Sustainability Act of 2023."

§9-4F-2. Purpose.

1 The purpose of this article is to increase program integrity in Medicaid and save resources
 2 for the truly needy by requiring the West Virginia Department of Health and Human
 3 Resources, Bureau for Medical Services (BMS) to apply for waivers to verify eligibility more
 4 frequently and encourage work.

§9-4F-3. Hospital presumptive eligibility.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
 2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
 3 services of the United States Department of Health and Human Services for a section 1115
 4 demonstration waiver to enable the department to eliminate mandatory hospital presumptive
 5 eligibility and restrict presumptive eligibility determinations to children and pregnant women
 6 eligibility groups.

§9-4F-4. Fraud lockout.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical

2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
3 services of the United States Department of Health and Human Services for a section 1115
4 demonstration waiver to prohibit re-enrollment and deny eligibility for a minimum of six months for
5 nondisabled, nonpregnant adults between the ages of 19 and 64 who fail to report changes in
6 circumstances which affect their eligibility for Medicaid.

§9-4F-5. Automatic renewal and prepopulated forms.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
3 services of the United States Department of Health and Human Services for a section 1115
4 demonstration waiver to enable the West Virginia Department of Health and Human
5 Resources, Bureau for Medical Services (BMS) to suspend the Medicaid requirement to renew
6 eligibility automatically based on available information and to suspend the Medicaid requirement
7 to use a pre-populated renewal form.

§9-4F-6. Biannual and quarterly redeterminations.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
3 services of the United States Department of Health and Human Services for a section 1115
4 demonstration waiver to enable the West Virginia Department of Health and Human
5 Resources, Bureau for Medical Services (BMS) to redetermine the Medicaid eligibility of all
6 individuals eligible under sections 1902(a)(10)(A)(i)(VIII) and 1902(e)(14) of the federal Social
7 Security Act or 42 USCS § 1396d(a)(ii) on a quarterly basis and all other individuals on a biannual
8 basis.

§9-4F-7. Mandatory job search.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
3 services of the United States Department of Health and Human Services for a section 1115

4 demonstration waiver to enable the West Virginia Department of Health and Human Resources to
 5 implement the following requirements for individuals otherwise eligible under sections
 6 1902(a)(10)(A)(i)(VIII) and 1902(e)(14) of the federal Social Security Act or 42 USCS §
 7 1396d(a)(ii):

8 (1) As a condition of eligibility before enrolling or re-enrolling an individual or issuing
 9 benefits funded through Medicaid, an individual must provide evidence of job search activities in
 10 the four preceding weeks including, at a minimum, evidence of six contacts with employers per
 11 week and three submitted job applications or resumes per week; and

12 (2) After enrolling an individual in Medicaid, an individual must, as a condition of continued
 13 eligibility, provide evidence of job search activities for the first ten weeks of coverage including, at a
 14 minimum, evidence of six contacts with employers per week and three submitted job applications
 15 or resumes per week and provide such evidence in a weekly compliance check-in and, without
 16 good cause provided by the individual for failure to comply or attendance in a check-in, the West
 17 Virginia Department of Health and Human Resources shall remove the individual.

§9-4F-8. Work requirement.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
 2 Services (BMS) shall request federal approval from the centers for Medicare and Medicaid
 3 services of the United States Department of Health and Human Services for a section 1115
 4 demonstration waiver to enable the West Virginia Department of Health and Human
 5 Resources, Bureau for Medical Services (BMS) to implement the following work requirement:

6 (a) No individual shall be eligible to participate in the Medicaid program unless that
 7 individual is:

8 (1) Working 20 hours or more per week, averaged monthly;

9 (2) Participating in and complying with the requirements of a work program 20 hours or
 10 more per week, as determined by the West Virginia Department of Health and Human
 11 Resources, Bureau for Medical Services (BMS);

12 (3) Volunteering 20 hours or more per week, as determined by the West
13 Virginia Department of Health and Human Resources, Bureau for Medical Services (BMS);

14 (4) Meeting any combination of working and participating in a work program for a total of 20
15 hours or more per week, as determined by the West Virginia Department of Health and Human
16 Resources, Bureau for Medical Services (BMS); or

17 (5) Participating and complying with the requirements of a workfare program.

18 (b) Exemptions from the work requirement. The Medicaid work requirement does not apply
19 to an individual if he or she is:

20 (1) Under the age of 19;

21 (2) Over the age of 64;

22 (3) Medically certified as physically or mentally unfit for employment;

23 (4) Is pregnant;

24 (5) A parent or caretaker responsible for the care of a dependent child under the age of 1;

25 (6) A parent or caretaker personally providing the care for a dependent child with serious
26 medical conditions or with a disability, as determined by the agency;

27 (7) Receiving unemployment compensation and complying with work requirements that
28 are part of the Federal-State unemployment compensation system; or

29 (8) Participating in a drug addiction or alcoholic treatment and rehabilitation program.

§9-4F-9. State plan amendments and waivers.

1 The West Virginia Department of Health and Human Resources, Bureau for Medical
2 Services (BMS) shall submit requests for federal approval from the centers for Medicare and
3 Medicaid services of the United States Department of Health and Human Services for a section
4 1115 demonstration waiver required under this article no later than January 1, 2024. If federal
5 approval for a waiver is denied at any point, the West Virginia Department of Health and Human
6 Resources shall resubmit a request for approval within 24 months of each denial.

§9-4F-10. Severability.

1 If any provision of this article or its application to any person or circumstance is held invalid,
2 then the invalidity shall not affect other provisions or applications of the article that can be given
3 effect without the invalid provision or application, and to that end the provisions of this article shall
4 be severable.

§9-4F-11. **Effective** **date.**

1 The provisions of this article shall take effect immediately.

NOTE: The purpose of this bill is to create the Medicaid Sustainability Act of 2023. The bill provides for a short title. The bill provides for a purpose. The bill provides for hospital presumptive eligibility. The bill creates a fraud lockout. The bill creates automatic renewal and prepopulated form. The bill provides for biannual and quarterly redeterminations. The bill provides for a mandatory job search. The bill creates work requirements. The bill provides for state plan amendments and waivers. The bill provides for severability. Finally, the bill provides an effective date.

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