

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5685

By Delegate Rohrbach

[Originating in the Committee on Finance; Reported
on February 23, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §9-5-34, relating to the state Medicaid program; adding requirement that the
3 Bureau for Medical Services submit certain waivers and plan amendments that grow total
4 program expenditures \$3 million or more beyond current expenses of the most recent
5 available fiscal year through the legislative rulemaking process; authorizing emergency
6 rules; and requiring the Bureau for Medical Services to study and provide reports to the
7 Legislature, including reports regarding the costs of the program and recommendations to
8 contain costs.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-34. Medicaid program waivers and amendments; rulemaking requirement; reporting requirements.

1 (a) The Bureau for Medical Services shall submit all Medicaid Waivers and State Plan
2 Amendments that grow total program expenditures \$3 million or more beyond current expenses of
3 the most recent available fiscal year through legislative rulemaking and the broader Legislature for
4 legislative approval. Any waiver or state plan that is currently under review as of the passage of
5 this statute may proceed through approval but must be submitted through legislative rulemaking
6 and the full body of the Legislature for approval. Any modifications that would take place as part of
7 this approval process must be submitted to the federal Centers for Medicare and Medicaid
8 Services as an amendment to the previous request: *Provided*, That the Bureau for Medical
9 Services is authorized to promulgate emergency rules to accomplish the provisions of this section
10 pursuant to §29A-3-1 *et seq.* of this code.

11 (b) The Bureau for Medical Services shall study all benefits and eligibility provided by the
12 program in relation to all surrounding states, and the five states nationally with the lowest per
13 capita costs, every three years. For each benefit or eligibility that the West Virginia Medicaid
14 program offers which exceeds that of any of the listed states, the Bureau for Medical Services

15 must report the differential and offer a recommendation as to whether or not the agency supports
16 continuing that benefit and/or eligibility at the current threshold. A six-year projection for
17 expenditures for the identified benefit must be included in a report to the Legislature. The first
18 report shall be submitted no later than December 31, 2024, to the Joint Committee on Government
19 and Finance. Thereafter, the Bureau for Medical Services shall submit a report every three years.

20 (c) The Bureau for Medical Services shall submit a report by December 31 of each year to
21 the Joint Committee on Government and Finance that analyzes how to achieve a one percent
22 state match budget reduction from the previous fiscal year. An explanation must be provided with
23 each identified budget reduction item on the costs and benefits of such a program change. It is not
24 required that these proposals be acted upon by the Bureau or the Legislature.

25 (d) The Bureau for Medical Services shall undertake an annual study, in conjunction and
26 with support of any state government agency that may be impacted by state Medicaid program
27 funding, to determine if those functions can be financially covered by the state Medicaid program
28 or more efficiently covered by the state Medicaid program. Analysis shall be undertaken where
29 programs leveraging state Medicaid program funding have services evaluated to determine if they
30 are in excess of bottom quartile of United States. This report shall be submitted to the Joint
31 Committee on Government and Finance by December 31 with any recommendations concerning
32 state budgetary savings.

33 (e) The Bureau for Medical Services shall conduct a study to determine if existing waiver
34 programs have generated financial offsets as originally planned. This initial study must be
35 submitted to the Joint Committee on Government and Finance by December 31, 2024. This study
36 must be conducted before any reauthorization is submitted to the federal Centers for Medicare
37 and Medicaid Services.

38 (f) The Bureau for Medical Services shall study and submit a report to Joint Committee on
39 Government and Finance by July 1, 2025, concerning strategies that may be undertaken by the
40 state to mitigate the benefit cliff. The benefit cliff occurs when an increase in a worker's earned

41 income causes a disproportionately greater loss of critical public assistance healthcare benefits. A
42 cliff can be prompted by a modest raise or a worker taking a new job with higher pay, or by
43 someone rejoining the workforce after some time away.

44 (g) The Bureau for Medical Services shall submit to Joint Committee on Government and
45 Finance, each year by December 31, a report on West Virginia's improper payment rate. The
46 Bureau must include in this report the following:

47 (1) The national average;

48 (2) Three states with the lowest improper payment rate;

49 (3) The amount of improper payment with breakdown of where these payments were made
50 and why; and

51 (4) Strategies on how to improve state improper payment rate.

52 (h) The Bureau for Medical Services shall develop a population health outcomes report
53 that quantifies the highest expenditure services, fastest growing expenditures, and areas
54 actuarially identified as having the greatest elasticity in driving down long-term expenditures. This
55 report shall provide where West Virginia ranks relative to other states, if available. The report shall
56 also quantify rates across demographics for obesity, diabetes, substance use disorder, heart
57 disease, cancer, infections following or during care, intrauterine substance exposure, neonatal
58 abstinence syndrome, dental health, diabetes, chronic obstructive pulmonary disease, and other
59 chronic conditions as determined a priority by the Secretary. This report shall be submitted to the
60 Joint Committee on Government and Finance by December 31 each year.