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Senate Bill 362 (as enacted)
Sponsor: Senator Curtis Hertel, Jr.
Senate Committee: Health Policy and Human Services
House Committee: Government Operations

PUBLIC ACT 50 of 2019

Date Completed: 4-1-20

RATIONALE

In a letter dated January 11, 2018, the Centers for Medicare and Medicaid Services (CMS) announced "a new policy designed to assist states in their efforts to improve Medicaid enrollee health and well-being through incentivizing work and community engagement among non-elderly, non-pregnant adult Medicaid beneficiaries who are eligible for Medicaid on a basis other than disability". The letter stated that CMS would support state demonstration projects under Section 1115 of the Social Security Act that require eligible adult beneficiaries to engage in work or community engagement activities (e.g., skills training, education, job search, caregiving, or volunteer service) in order to determine whether those requirements assist beneficiaries in obtaining sustainable employment or other community engagement, and whether sustained employment or other productive community engagement leads to improved health outcomes. As of August 9, 2019, the Kaiser Family Foundation reports that 16 states, including Michigan, have submitted a waiver under Section 1115 to CMS to implement a workforce engagement requirements program.

Under Public Act 208 of 2018, Michigan applied for and received a Federal waiver to include workforce engagement requirements as a requirement for Healthy Michigan Plan (HMP) recipients to receive benefits. The Department of Health and Human Services (DHHS) on January 1, 2020, implemented the workforce engagement requirements that consist of 80 hours per month of qualifying activities, such as employment or community service. Public Act 208 of 2018 also granted DHHS the authority to enforce the workforce engagement requirements through a compliance review process in which a recipient verifies that he or she was meeting the workforce engagement requirement by the 10th of each month for the previous month's qualifying activities.

While Michigan's workforce engagement requirements only recently took effect, similar workforce engagement programs from other states reportedly have offered insight into the implementation process. For example, according to testimony before the Senate Committee on Health Policy and Human Services, Arkansas's workforce engagement program confronted difficulties with a high volume of recipients attempting to report workforce engagement requirements in a small window of time. Some people had concerns that this problem also could occur in Michigan during the 10 days that recipients had to report workforce engagement compliance. Accordingly, it was suggested that the Legislature expand the window of time that recipients have to report compliance with the workforce engagement requirements.

CONTENT

Senate Bill 362 amended the Social Welfare Act to do the following:

-- Modify the date by which an able-bodied recipient must verify that he or she is meeting the Healthy Michigan Plan's workforce engagement requirements, from

the tenth of each month to the last day of each month, for the previous month's qualifying activities.

- Allow a recipient to verify compliance with the workforce engagement requirements up to 60 days after the missed date for reporting.**
- Provide an exemption from the reporting workforce engagement requirement if DHHS can verify a recipient's compliance through other data available to it.**

The bill took effect September 23, 2019.

Under the Act, the DHHS must apply for a waiver under Section 1115 of the Social Security Act and submit subsequent waivers to prevent a lapse in the workforce engagement requirements as a condition of receiving medical assistance under HMP (Michigan's Medicaid-expansion program that provides health care benefits to low-income individuals who do not qualify for Medicaid). After the waiver requested is approved, the Department must include certain requirements in its implementation of the workforce engagement requirements.

(Section 1115 of the Social Security Act authorizes the Secretary of the U.S. Department of Health and Human Services to waive specific provisions of health and welfare programs, including Medicaid, for experimental, pilot, or demonstration programs in a state.)

Previously, the waiver had to be a request to allow, among other things, a requirement that an able-bodied recipient verify that he or she was meeting the workforce engagement requirements by the 10th of each month for the previous month's qualifying activities through MiBridges or any other subsequent system. Instead, under the bill, an able-bodied recipient must verify that he or she was meeting the workforce engagement requirements by the last day of each month for the previous month's qualifying activities. The bill specifies that if a recipient does not verify that he or she is meeting the workforce engagement requirements by the last day of the month for the previous month, he or she may verify compliance with the workforce engagement requirements up to 60 days after the missed date for reporting. If the recipient verifies compliance within this time period, the month is not be a noncompliance month.

The bill also requires the waiver to be a request to allow an exemption from the reporting requirement if the DHHS is able to verify the recipient's compliance through other data available to it.

Previously, after the waiver was approved, the DHHS had to include in its implementation of the workforce engagement requirements, among other things, a requirement that an able-bodied recipient verifies that he or she was meeting the workforce engagement requirements by the 10th of each month for the previous month's qualifying activities through MiBridges or any other subsequent system.

Under the bill, instead, the DHHS must include in its implementation of the workforce engagement requirements a requirement that an able-bodied recipient verify that he or she is meeting the requirements by the last day of each month for the previous month's qualifying activities. If a recipient does not do so, he or she may verify compliance with the workforce engagement requirements up to 60 days after the missed date for reporting. If the recipient verifies compliance within this time period, the month will not be a noncompliance month.

(A recipient currently is allowed three months of noncompliance within a 12-month period. The recipient may use a noncompliance either by self-reporting that he or she is not in compliance that month or by the default method of not reporting compliance for that month. The DHHS must notify the recipient after each use of a noncompliance month, and, after a

recipient uses three noncompliance months in a 12-month period, the recipient loses coverage for at least one month until he or she complies.)

The bill also requires the DHHS to include in its implementation of the workforce engagement requirements an exemption from the reporting requirement if the DHHS is able to verify the recipient's compliance through other data available to it.

MCL 400.107b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Medicaid workforce engagement requirements already have taken effect in some states across the United States. In Arkansas, a program similar to Michigan's began in June 2018, and at the end of the year, 18,164 Medicaid recipients lost coverage as a result of the workforce engagement requirements. Preliminary reports suggest that people who could comply with the workforce engagement requirements have failed to report because of confusion related to the law or challenges in the reporting process. For example, some Arkansas residents claimed that attempts to report their compliance through fax, phone, or mail failed because of difficulties with the appropriate department's communications, and the online system deterred them from reporting because of either a low technological literacy or the unavailability of quality access to the internet.^{1,2} In addition, while Medicaid recipients can report hours through a variety of media, many of those avenues can become overwhelmed by the influx of recipients attempting to report.

Michigan can avoid these concerns by making workforce compliance reporting more streamlined and accessible. The bill expands the window of time that Medicaid recipients can report compliance, which will distribute the high volume of calls to DHHS employees and the high volume of recipients using the MiBridges website across a larger period of time. In addition, allowing the DHHS to report compliance for recipients automatically with preexisting data available to it through Michigan New Hire reporting requirements for example, will decrease the demand on media used to report compliance. The bill will assist in the implementation of workforce engagement requirements to ensure that recipients who participate in qualifying activities continue to receive HMP benefits.

Response: Current law exempts certain HMP recipients from workforce compliance requirements: those who are pregnant, full-time students, those who are caretakers of a family member under the age of six or incapacitated individuals, and individuals with certain medical conditions, among others. In addition to expanding the window of time for reporting to ensure recipients do not lose coverage, the exemptions should have been expanded to include recipients over the age of 50 and recipients who are caretakers of a minor child, no matter the age of the child. Recipients over 50 may have difficulty fulfilling workforce engagement requirements as they compete against a younger, often less expensive workforce. A caretaker for a minor child may have difficulty finding affordable child care for a child. Expanding the window of time to report workforce engagement compliance will not ensure that these individuals maintained health coverage.

Additionally, a core principle of the law that authorizes Medicaid coverage is access to quality healthcare for individuals in need. When considering effective policies from other states for the implementation of Michigan's workforce engagement requirements, the Legislature should have considered a policy similar to that of New Hampshire's implementation. Under that policy, the workforce engagement requirements would be eliminated if a certain number of people lost their

¹ Hardy, Benjamin. "Locked Out of Medicaid", *Arkansas Times*, November 19, 2018.

² Thompson, J. & Wilson, J., "Nation's First Medicaid Work Requirement Sheds Thousands from Rolls in Arkansas", *Health Affairs*, October 2, 2018.

health coverage. This would ensure that coverage remained available if the implementation of workforce engagement requirements failed to satisfy one of the underlying principles of Medicaid.

Legislative Analyst: Tyler VanHuysse

FISCAL IMPACT

The bill will lead to both positive and negative fiscal impacts of indeterminate amounts.

The bill effectively simplifies the monthly reporting requirement in two ways. First, HMP recipients subject to the work engagement requirements have more leeway to report. Instead of having to report compliance by the 10th of each month, a recipient has until the end of the month or can verify compliance for that month at a subsequent date. Second, if the DHHS can verify compliance through other means, such as income reporting for eligibility for other programs (such as the Family Independence Program or the Food Assistance Program), the recipient is exempt from monthly reporting.

The DHHS estimates total annual HMP call center costs of \$11.0 million Gross, \$5.5 million General Fund/General Purpose (GF/GP) for numerous services (beyond work engagement compliance) related to the HMP. The changes in the bill will reduce the number of people who have to check in each month and spread out their phone calls to the entire month instead of having the calls come in during the first ten days of the month. These changes will reduce administrative costs by an indeterminate amount. For each cohort of 50,000 recipients who otherwise would phone in but now are exempt from monthly reporting, there will be up to 600,000 fewer phone calls each year. If each of those calls took five minutes to process, that would equate to 50,000 fewer hours of staff time required or about 25.0 fewer FTEs needed. The cost of 25.0 FTEs would be in the range of \$1.0 million GF/GP given typical field staff wages, benefits, and Federal match funding. Spreading out the calls over the full month (instead of having to be during the first ten days) also will reduce administrative burden by an indeterminate amount; these staff still have many other responsibilities, but there will be less need for overtime for time sensitive responsibilities early in each month.

This administrative cost savings estimate is indeterminate because of the number of assumptions reflected above. It is not clear how long a typical call would take, whether there would be other non-phone ways to check in (such as via the Internet or an app), or how many people will be exempt because of the DHHS's ability to verify compliance in other ways.

The changes also likely will effectively reduce the number of people sanctioned due to there being more ways and a longer time period to verify compliance. This will abate any reduction in caseload and costs due to noncompliance and effectively will increase State expenditures as cases that otherwise would have been subject to sanction no longer will be sanctioned. The fiscal year 2019-20 Executive, Senate, and House Appropriations Committee budgets for DHHS assumed a reduction in HMP costs of \$50 million Gross as some of those subject to the HMP work requirement will lose HMP eligibility either due to increased income or sanctions. Due to the 90% Federal HMP match rate that took effect on January 1, 2020 (the date the work engagement requirements took effect), the GF/GP savings built into the budget will be \$5.0 million. Both the Gross and GF/GP amounts are extremely rough estimates; the number of noncompliant individuals under the original legislation is, at this point, impossible to estimate due to the lack of experience in Michigan or in other states. Similarly, the impact of Senate Bill 362 on reducing the number of people sanctioned is impossible to determine. It should be noted that each individual case sanctioned or not sanctioned accrues average HMP costs of \$6,000 Gross and \$600 GF/GP per year. As such, each cohort of 1,000 cases that are sanctioned or not sanctioned reflects approximate spending of \$6.0 million Gross and

\$600,000 GF/GP, and if 1,000 people who would have been sanctioned under the original legislation are not sanctioned, GF/GP costs will increase by \$600,000.

The figures quoted above (\$1.0 million GF/GP for wages for each cohort of 50,000 people who phone in and \$600,000 GF/GP in HMP spending for each 1,000 cases that were sanctioned) are not meant to serve as estimates of the fiscal impact of the bill, but to illustrate the scale of the impact. The actual number of people who no longer have to phone in under the legislation and the actual number of cases sanctioned are indeterminate and will remain so until there is some experience with the work engagement requirements. As such, the fiscal impact of the bill is indeterminate.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.