

# SENATE BILL NO. 362

June 05, 2019, Introduced by Senators HERTEL, SHIRKEY, ANANICH, MACGREGOR, GEISS, WOJNO, STAMAS, MACDONALD, BRINKS, LASATA, BULLOCK, OUTMAN, POLEHANKI, VANDERWALL, MCMORROW, IRWIN, ALEXANDER, HOLLIER and SCHMIDT and referred to the Committee on Health Policy and Human Services.

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
by amending section 107b (MCL 400.107b), as added by 2018 PA 208.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 107b. (1) No later than October 1, 2018, the department  
2       must apply for or apply to amend a waiver under section 1115 of the  
3       social security act, 42 USC 1315, and submit subsequent waivers to  
4       prohibit and prevent a lapse in the workforce engagement  
5       requirements as a condition of receiving medical assistance under

1 section 105d. The waiver must be a request to allow for all of the  
2 following:

3 (a) A requirement of 80 hours average per month of qualifying  
4 activities or a combination of any qualifying activities, to count  
5 toward the workforce engagement requirement under this section.

6 (b) A requirement that ~~an able-bodied recipients verify that~~  
7 ~~they are~~ **recipient verifies that he or she is** meeting the workforce  
8 engagement requirements by the ~~tenth~~ **last day** of each month for the  
9 previous month's qualifying activities through MiBridges or any  
10 other subsequent system. **If a recipient does not verify that he or**  
11 **she is meeting the workforce engagement requirements by the last**  
12 **day of the month for the previous month, he or she may verify**  
13 **compliance with the workforce engagement requirements at a date**  
14 **after the missed date for reporting. If the recipient verifies**  
15 **compliance at a later date, the month is not a noncompliance month.**

16 A recipient is allowed 3 months of noncompliance within a 12-month  
17 period. The recipient may use a noncompliance month either by self-  
18 reporting that he or she is not in compliance that month or by the  
19 default method of not reporting compliance for that month. The  
20 department shall notify the recipient after each time a  
21 noncompliance month is used. After a recipient uses 3 noncompliance  
22 months in a 12-month period, the recipient loses coverage for at  
23 least 1 month until he or she becomes compliant under this section.

24 (c) Allow substance use disorder treatment that is court-  
25 ordered, prescribed by a licensed medical professional, or is a  
26 Medicaid-funded substance use disorder treatment, to count toward  
27 the workforce engagement requirements if the treatment impedes the  
28 ability to meet the workforce engagement requirements.

29 (d) A requirement that community service must be completed

1 with a nonprofit organization that is exempt from taxation under  
2 section 501(c)(3) or 501(c)(4) of the internal revenue code of  
3 1986, 26 USC 501. Community service can only be used as a  
4 qualifying activity for up to 3 months in a 12-month period.

5 (e) A requirement that a recipient who is also a recipient of  
6 the supplemental nutrition assistance program or the temporary  
7 assistance for needy families program who is in compliance with or  
8 exempt from the work requirements of the supplemental nutrition  
9 assistance program or the temporary assistance for needy families  
10 program is considered to be in compliance with or exempt from the  
11 workforce engagement requirements in this section.

12 (f) An exemption for a recipient who meets 1 or more of the  
13 following conditions:

14 (i) A recipient who is the caretaker of a family member who is  
15 under the age of 6 years. This exemption allows only 1 parent at a  
16 time to be a caretaker, no matter how many children are being cared  
17 for.

18 (ii) A recipient who is currently receiving temporary or  
19 permanent long-term disability benefits from a private insurer or  
20 from the government.

21 (iii) A recipient who is a full-time student who is not a  
22 dependent of a parent or guardian or whose parent or guardian  
23 qualifies for Medicaid. This subparagraph includes a student in a  
24 postsecondary institution or certificate program.

25 (iv) A recipient who is pregnant.

26 (v) A recipient who is the caretaker of a dependent with a  
27 disability which dependent needs full-time care based on a licensed  
28 medical professional's order. This exemption is allowed 1 time per  
29 household.

1 (vi) A recipient who is the caretaker of an incapacitated  
2 individual even if the incapacitated individual is not a dependent  
3 of the caretaker.

4 (vii) A recipient who has proven that he or she has met the  
5 good cause temporary exemption.

6 (viii) A recipient who has been designated as medically frail.

7 (ix) A recipient who has a medical condition that results in a  
8 work limitation according to a licensed medical professional's  
9 order.

10 (x) A recipient who has been incarcerated within the last 6  
11 months.

12 (xi) A recipient who is receiving unemployment benefits from  
13 this state. This exemption applies during the period the recipient  
14 received unemployment benefits and ends when the recipient is no  
15 longer receiving unemployment benefits.

16 (xii) A recipient who is under 21 years of age who had  
17 previously been in a foster care placement in this state.

18 (2) After the waiver requested under this section is approved,  
19 the department must include, but is not limited to, all of the  
20 following, as approved in the waiver, in its implementation of the  
21 workforce engagement requirements under this section:

22 (a) A requirement of 80 hours average per month of qualifying  
23 activities or a combination of any qualifying activities counts  
24 toward the workforce engagement requirement under this section.

25 (b) A requirement that ~~an able-bodied recipients must verify~~  
26 ~~that they are~~ **recipient verifies that he or she is** meeting the  
27 workforce engagement requirements by the ~~tenth~~ **last day** of each  
28 month for the previous month's qualifying activities through  
29 MiBridges or any other subsequent system. **If a recipient does not**

1   **verify that he or she is meeting the workforce engagement**  
2   **requirements by the last day of the month for the previous month,**  
3   **he or she may verify compliance with the workforce engagement**  
4   **requirements at a date after the missed date for reporting. If the**  
5   **recipient verifies compliance at a later date, the month is not a**  
6   **noncompliance month.** A recipient is allowed 3 months of  
7   noncompliance within a 12-month period. The recipient may use a  
8   noncompliance month either by self-reporting that he or she is not  
9   in compliance that month or by the default method of not reporting  
10   compliance for that month. The department shall notify the  
11   recipient after each time a noncompliance month is used. After a  
12   recipient uses 3 noncompliance months in a 12-month period, the  
13   recipient loses coverage for at least 1 month until he or she  
14   becomes compliant under this section.

15       (c) Allowing substance use disorder treatment that is court-  
16   ordered, is prescribed by a licensed medical professional, or is a  
17   Medicaid-funded substance use disorder treatment, to count toward  
18   the workforce engagement requirements if the treatment impedes the  
19   ability to meet the workforce engagement requirements.

20       (d) A requirement that community service must be completed  
21   with a nonprofit organization that is exempt from taxation under  
22   section 501(c)(3) or 501(c)(4) of the internal revenue code of  
23   1986, 26 USC 501. Community service can only be used as a  
24   qualifying activity for up to 3 months in a 12-month period.

25       (e) A requirement that a recipient who is also a recipient of  
26   the supplemental nutrition assistance program or the temporary  
27   assistance for needy families program who is in compliance with or  
28   exempt from the work requirements of the supplemental nutrition  
29   assistance program or the temporary assistance for needy families

1 program is considered to be in compliance with or exempt from the  
2 workforce engagement requirements in this section.

3 (f) An exemption for a recipient who meets 1 or more of the  
4 following conditions:

5 (i) A recipient who is the caretaker of a family member who is  
6 under the age of 6 years. This exemption allows only 1 parent at a  
7 time to be a caretaker, no matter how many children are being cared  
8 for.

9 (ii) A recipient who is currently receiving temporary or  
10 permanent long-term disability benefits from a private insurer or  
11 from the government.

12 (iii) A recipient who is a full-time student who is not a  
13 dependent of a parent or guardian or whose parent or guardian  
14 qualifies for Medicaid. This subparagraph includes a student in a  
15 postsecondary institution or a certificate program.

16 (iv) A recipient who is pregnant.

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18 disability which dependent needs full-time care based on a licensed  
19 medical professional's order. This exemption is allowed 1 time per  
20 household.

21 (vi) A recipient who is the caretaker of an incapacitated  
22 individual even if the incapacitated individual is not a dependent  
23 of the caretaker.

24 (vii) A recipient who has proven that he or she has met the  
25 good cause temporary exemption.

26 (viii) A recipient who has been designated as medically frail.

27 (ix) A recipient who has a medical condition that results in a  
28 work limitation according to a licensed medical professional's

1 order.

2 (x) A recipient who has been incarcerated within the last 6  
3 months.

4 (xi) A recipient who is receiving unemployment benefits from  
5 this state. This exemption applies during the period the recipient  
6 received unemployment benefits and ends when the recipient is no  
7 longer receiving unemployment benefits.

8 (xii) A recipient who is under 21 years of age who had  
9 previously been in a foster care placement in this state.

10 (3) The department may first direct recipients to existing  
11 resources for job training or other employment services, child care  
12 assistance, transportation, or other supports. The department may  
13 develop strategies for assisting recipients to meet workforce  
14 engagement requirements under this section.

15 (4) ~~Beginning~~ **By** October 1, 2018 ~~and each year~~ the department  
16 submits a waiver to prohibit and prevent a lapse in the workforce  
17 engagement requirements, ~~after that,~~ the Medicaid director must  
18 submit to the governor, the senate majority leader, and the speaker  
19 of the house of representatives a letter confirming the submission  
20 of the waiver request required under subsection (1).

21 (5) Beginning January 1, 2020, the department must execute a  
22 survey to obtain the information needed to complete an evaluation  
23 of the medical assistance program under section 105d to determine  
24 how many recipients have left the Healthy Michigan program as a  
25 result of obtaining employment and medical benefits.

26 (6) The department must execute a survey to obtain the  
27 information needed to submit a report to the legislature beginning  
28 January 1, 2021, and every January 1 after that, that shows, for  
29 medical assistance under section 105d known as Healthy Michigan,

1 the number of exemptions from workforce engagement requirements  
2 granted to individuals in that year and the reason the exemptions  
3 were granted.

4 (7) The department shall enforce the provisions of this  
5 section by conducting the compliance review process on medical  
6 assistance recipients under section 105d who are required to meet  
7 the workforce engagement requirements of this section. If a  
8 recipient is found, through the compliance review process, to have  
9 misrepresented his or her compliance with the workforce engagement  
10 requirements in this section, he or she shall not be allowed to  
11 participate in the Healthy Michigan program under section 105d for  
12 a 1-year period.

13 (8) The department shall implement the requirements of this  
14 section no later than January 1, 2020, and shall notify recipients  
15 to whom the workforce engagement requirements described in this  
16 section are likely to apply of the workforce engagement  
17 requirements 90 days in advance.

18 (9) The cost of initial implementation of the workforce  
19 engagement requirements required under this section shall not be  
20 considered when determining the cost-benefit analysis required  
21 under section 105d(28)(b). The cost of initial implementation does  
22 not include the cost of ongoing administration of the workforce  
23 engagement requirements. The ongoing costs of administering the  
24 workforce engagement requirements required under this section may  
25 have up to a \$5,000,000.00 general fund/general purpose revenue  
26 limit that shall not be counted when determining the cost-benefit  
27 analysis required under section 105d(28)(b). Any ongoing costs  
28 above \$5,000,000.00 of general fund/general purpose revenue to  
29 administer the workforce engagement requirements under this section



1 shall be considered in the cost-benefit analysis required under  
2 section 105d(28) (b) .

3 (10) Beginning January 1, 2020, medical assistance recipients  
4 who are not exempt from the workforce engagement requirements under  
5 this section must be in compliance with this section. Beginning  
6 January 1, 2020, a medical assistance applicant who is not exempt  
7 from the work engagement requirements under this section must be in  
8 compliance with this section not more than 30 days after an  
9 eligibility determination is made.

10 (11) The department shall not withdraw, terminate, or amend  
11 any waiver submitted under this section without the express  
12 approval of the legislature in the form of a bill enacted by law.