

SENATE BILL NO. 363

June 05, 2019, Introduced by Senators SHIRKEY, HERTEL, ANANICH, MACGREGOR, GEISS, WOJNO, STAMAS, MACDONALD, BRINKS, LASATA, BULLOCK, POLEHANKI, OUTMAN, 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 of each month for the previous
9 month's qualifying activities through MiBridges or any other
10 subsequent system. A recipient is allowed 3 months of noncompliance
11 within a 12-month period. The recipient may use a noncompliance
12 month either by self-reporting that he or she is not in compliance
13 that month or by the default method of not reporting compliance for
14 that month. The department shall notify the recipient after each
15 time a noncompliance month is used. After a recipient uses 3
16 noncompliance months in a 12-month period, the recipient loses
17 coverage for at least 1 month until he or she becomes compliant
18 under this section.

19 (c) Allow substance use disorder treatment that is court-
20 ordered, prescribed by a licensed medical professional, or is a
21 Medicaid-funded substance use disorder treatment, to count toward
22 the workforce engagement requirements if the treatment impedes the
23 ability to meet the workforce engagement requirements.

24 (d) A requirement that community service must be completed
25 with a nonprofit organization that is exempt from taxation under
26 section 501(c)(3) or 501(c)(4) of the internal revenue code of
27 1986, 26 USC 501. Community service can only be used as a
28 qualifying activity for up to 3 months in a 12-month period.

29 (e) A requirement that a recipient who is also a recipient of

1 the supplemental nutrition assistance program or the temporary
 2 assistance for needy families program who is in compliance with or
 3 exempt from the work requirements of the supplemental nutrition
 4 assistance program or the temporary assistance for needy families
 5 program is considered to be in compliance with or exempt from the
 6 workforce engagement requirements in this section.

7 **(f) An exemption from the reporting requirement if the**
 8 **department is able to verify the recipient's compliance through**
 9 **other data available to the department.**

10 **(g) ~~(f)~~**—An exemption for a recipient who meets 1 or more of
 11 the following conditions:

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

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

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

23 (iv) A recipient who is pregnant.

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

28 (vi) A recipient who is the caretaker of an incapacitated
 29 individual even if the incapacitated individual is not a dependent

1 of the caretaker.

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

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

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

8 (x) A recipient who has been incarcerated within the last 6
9 months.

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

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

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

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

23 (b) A requirement that ~~an able-bodied recipients must verify~~
24 ~~that they are~~ **recipient verifies that he or she is** meeting the
25 workforce engagement requirements by the tenth of each month for
26 the previous month's qualifying activities through MiBridges or any
27 other subsequent system. A recipient is allowed 3 months of
28 noncompliance within a 12-month period. The recipient may use a
29 noncompliance month either by self-reporting that he or she is not

1 in compliance that month or by the default method of not reporting
2 compliance for that month. The department shall notify the
3 recipient after each time a noncompliance month is used. After a
4 recipient uses 3 noncompliance months in a 12-month period, the
5 recipient loses coverage for at least 1 month until he or she
6 becomes compliant under this section.

7 (c) Allowing substance use disorder treatment that is court-
8 ordered, is prescribed by a licensed medical professional, or is a
9 Medicaid-funded substance use disorder treatment, to count toward
10 the workforce engagement requirements if the treatment impedes the
11 ability to meet the workforce engagement requirements.

12 (d) A requirement that community service must be completed
13 with a nonprofit organization that is exempt from taxation under
14 section 501(c)(3) or 501(c)(4) of the internal revenue code of
15 1986, 26 USC 501. Community service can only be used as a
16 qualifying activity for up to 3 months in a 12-month period.

17 (e) A requirement that a recipient who is also a recipient of
18 the supplemental nutrition assistance program or the temporary
19 assistance for needy families program who is in compliance with or
20 exempt from the work requirements of the supplemental nutrition
21 assistance program or the temporary assistance for needy families
22 program is considered to be in compliance with or exempt from the
23 workforce engagement requirements in this section.

24 **(f) An exemption from the reporting requirement if the**
25 **department is able to verify the recipient's compliance through**
26 **other data available to the department.**

27 **(g) ~~(f)~~—An exemption for a recipient who meets 1 or more of**
28 **the following conditions:**

29 (i) A recipient who is the caretaker of a family member who is

1 under the age of 6 years. This exemption allows only 1 parent at a
2 time to be a caretaker, no matter how many children are being cared
3 for.

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

7 (iii) A recipient who is a full-time student who is not a
8 dependent of a parent or guardian or whose parent or guardian
9 qualifies for Medicaid. This subparagraph includes a student in a
10 postsecondary institution or a certificate program.

11 (iv) A recipient who is pregnant.

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

16 (vi) A recipient who is the caretaker of an incapacitated
17 individual even if the incapacitated individual is not a dependent
18 of the caretaker.

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

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

22 (ix) A recipient who has a medical condition that results in a
23 work limitation according to a licensed medical professional's
24 order.

25 (x) A recipient who has been incarcerated within the last 6
26 months.

27 (xi) A recipient who is receiving unemployment benefits from
28 this state. This exemption applies during the period the recipient

1 received unemployment benefits and ends when the recipient is no
2 longer receiving unemployment benefits.

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

5 (3) The department may first direct recipients to existing
6 resources for job training or other employment services, child care
7 assistance, transportation, or other supports. The department may
8 develop strategies for assisting recipients to meet workforce
9 engagement requirements under this section.

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

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

21 (6) The department must execute a survey to obtain the
22 information needed to submit a report to the legislature beginning
23 January 1, 2021, and every January 1 after that, that shows, for
24 medical assistance under section 105d known as Healthy Michigan,
25 the number of exemptions from workforce engagement requirements
26 granted to individuals in that year and the reason the exemptions
27 were granted.

28 (7) The department shall enforce the provisions of this
29 section by conducting the compliance review process on medical

1 assistance recipients under section 105d who are required to meet
2 the workforce engagement requirements of this section. If a
3 recipient is found, through the compliance review process, to have
4 misrepresented his or her compliance with the workforce engagement
5 requirements in this section, he or she shall not be allowed to
6 participate in the Healthy Michigan program under section 105d for
7 a 1-year period.

8 (8) The department shall implement the requirements of this
9 section no later than January 1, 2020, and shall notify recipients
10 to whom the workforce engagement requirements described in this
11 section are likely to apply of the workforce engagement
12 requirements 90 days in advance.

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

27 (10) Beginning January 1, 2020, medical assistance recipients
28 who are not exempt from the workforce engagement requirements under
29 this section must be in compliance with this section. Beginning

1 January 1, 2020, a medical assistance applicant who is not exempt
2 from the work engagement requirements under this section must be in
3 compliance with this section not more than 30 days after an
4 eligibility determination is made.

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