

SENATE BILL No. 363

June 5, 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
6 section 105d. The waiver must be a request to allow for all of the
7 following:

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

1 (b) A requirement that **AN** able-bodied ~~recipients verify that~~
2 ~~they are~~ **RECIPIENT VERIFIES THAT HE OR SHE IS** meeting the workforce
3 engagement requirements by the tenth of each month for the previous
4 month's qualifying activities through MiBridges or any other
5 subsequent system. A recipient is allowed 3 months of noncompliance
6 within a 12-month period. The recipient may use a noncompliance
7 month either by self-reporting that he or she is not in compliance
8 that month or by the default method of not reporting compliance for
9 that month. The department shall notify the recipient after each
10 time a noncompliance month is used. After a recipient uses 3
11 noncompliance months in a 12-month period, the recipient loses
12 coverage for at least 1 month until he or she becomes compliant
13 under this section.

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

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

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

1 assistance program or the temporary assistance for needy families
2 program is considered to be in compliance with or exempt from the
3 workforce engagement requirements in this section.

4 **(F) AN EXEMPTION FROM THE REPORTING REQUIREMENT IF THE**
5 **DEPARTMENT IS ABLE TO VERIFY THE RECIPIENT'S COMPLIANCE THROUGH**
6 **OTHER DATA AVAILABLE TO THE DEPARTMENT.**

7 **(G)** ~~(F)~~—An exemption for a recipient who meets 1 or more of
8 the following conditions:

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

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

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

20 (iv) A recipient who is pregnant.

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

25 (vi) A recipient who is the caretaker of an incapacitated
26 individual even if the incapacitated individual is not a dependent
27 of the caretaker.

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

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

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

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

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

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

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

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

22 (b) A requirement that **AN** able-bodied ~~recipients must verify~~
23 ~~that they are~~ **RECIPIENT VERIFIES THAT HE OR SHE IS** meeting the
24 workforce engagement requirements by the tenth of each month for
25 the previous month's qualifying activities through MiBridges or any
26 other subsequent system. A recipient is allowed 3 months of
27 noncompliance within a 12-month period. The recipient may use a

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

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

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

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

25 **(F) AN EXEMPTION FROM THE REPORTING REQUIREMENT IF THE**
26 **DEPARTMENT IS ABLE TO VERIFY THE RECIPIENT'S COMPLIANCE THROUGH**
27 **OTHER DATA AVAILABLE TO THE DEPARTMENT.**

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2 the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (6) The department must execute a survey to obtain the
26 information needed to submit a report to the legislature beginning
27 January 1, 2021, and every January 1 after that, that shows, for

1 medical assistance under section 105d known as Healthy Michigan,
2 the number of exemptions from workforce engagement requirements
3 granted to individuals in that year and the reason the exemptions
4 were granted.

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

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

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

1 analysis required under section 105d(28) (b). Any ongoing costs
2 above \$5,000,000.00 of general fund/general purpose revenue to
3 administer the workforce engagement requirements under this section
4 shall be considered in the cost-benefit analysis required under
5 section 105d(28) (b).

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

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