

Legislative Analysis



REPEAL HEALTHY MICHIGAN PLAN WORK REQUIREMENTS

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House Bill 4224 as reported from committee
Sponsor: Rep. Julie M. Rogers
Committee: Health Policy
Complete to 4-11-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4224 would repeal sections 107a and 107b of the Social Welfare Act, which were added by 2018 PA 208. Under a waiver granted by the Centers for Medicare and Medicaid Services (CMS), the 2018 legislation created workforce engagement requirements for beneficiaries enrolled in the Healthy Michigan Plan (HMP), Michigan's Medicaid expansion program, and established reporting and verification criteria for those required to prove their compliance with those workforce engagement requirements.

Under the legislation, most of the MHP Medicaid beneficiaries who were 19 to 62 years of age were required to work 80 hours a month or engage in such activities as job training, unpaid internships, participation in substance use disorder treatment, or community service. Noncompliance with the workforce engagement requirements could result in the loss of health care coverage for at least one month and prohibit a beneficiary from reenrolling until they became compliant. Some exemptions from the work requirements were provided.

However, on March 4, 2020, the U.S. District Court for the District of Columbia issued an order that vacated CMS's approval of the waiver that provided the basis for the state to establish work requirements under the HMP. Without the waiver, the requirements of sections 107a and 107b could not be implemented.

MCL 400.107a and 400.107b (repealed)

BRIEF DISCUSSION:

Shortly before the U.S. District Court for the District of Columbia issued its order in 2020 that prevented the implementation of Michigan's law to require work requirements for beneficiaries of the Healthy Michigan Plan, the U.S. Court of Appeals for the District of Columbia Circuit had affirmed the district court's decision to vacate a similar Medicaid waiver issued to Arkansas.¹ In 2021, the current administration determined that such work requirements for Medicaid eligibility do not align with the goals of the Medicaid program. In April 2022, the U.S. Supreme Court effectively dismissed the case by granting a motion by the secretary of the U.S. Department of Health and Human Services (HHS) to vacate the judgment of the federal appellate court and remand the case, along with other related cases, to the appellate court. The

¹ *Gresham v Azar*, 950 F3d 93 (DC, 2020). https://scholar.google.com/scholar_case?case=5251918899457822307

appellate court was instructed to direct the district court to vacate its judgment, dismiss the case as moot, and remand the issue to the secretary of HHS.²

Considering the history and resolution of the litigation, it is unlikely that the CMS would be required to authorize waivers in the future for states to establish work requirements for beneficiaries of expanded Medicaid programs. For instance, the appellate ruling in *Gresham* noted that Congress did not include a Medicaid work requirement when similar requirements were added to the TANF and SNAP programs and that the district court had ruled that approval of the Arkansas Works Amendments was “arbitrary and capricious” and failed to address whether and how the Arkansas project would “implicate the ‘core’ objective of Medicaid: the provision of medical coverage to the needy.”

Such hurdles may not be able to be overcome, leading many to believe that House Bill 4224 should be enacted to remove the two sections of law prescribing a work requirement for many beneficiaries of the Healthy Michigan Plan. To leave sections 107a and 107b on the books could cause confusion for beneficiaries, advocates, and caseworkers, they argue, as well as create an undue burden for the Michigan Department of Health and Human Services, which would have to remain ready to implement the work requirements should a future administration reestablish a waiver authority for CMS that passes review by the courts. In addition, recent federal legislation requires each state to restart Medicaid eligibility renewals. This means that all Michigan residents who participate in regular Medicaid or the HMP must, beginning in June 2023, complete paperwork as part of a redetermination effort to see who still meets eligibility criteria. Supporters of the bill maintain that the Michigan Department of Health and Human Services workforce and resources must be prioritized to complete this task and to fill other mandated services, not be used to stand at the ready to implement a requirement vacated by the Supreme Court that may never see the light of day again.

Those opposed to the bill argue that work requirements as a condition of receiving health benefits can be a strong incentive for able-bodied adults to seek employment or training for a job or career, and that leaving the requirements in statute would enable the state to implement them should the needed CMS waivers once again be issued and upheld by the courts.

FISCAL IMPACT:

The bill would have no fiscal impact. Due to court order, Medicaid work requirements were never implemented.

POSITIONS:

Representatives of the following entities testified in support of the bill (3-16-23):

- Michigan League for Public Policy
- Michigan Health & Hospital Association

The following entities indicated support for the bill:

- Michigan Department of Health and Human Services (3-23-23)
- Community Health Alliance of Michigan (3-23-23)

² <https://www.supremecourt.gov/docket/docketfiles/html/public/20-37.html>

- APTA-MI (3-23-23)
- Michigan Nurses Association (3-23-23)
- AARP Michigan (3-23-23)
- Michigan State Medical Society (3-16-23)
- Kalamazoo Community Foundation (3-16-23)
- National Multiple Sclerosis Society (3-23-23)

The Mackinac Center for Public Policy indicated opposition to the bill. (3-16-23)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Kent Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.