

Testimony
House Committee on Commerce and Economic Development

H. 333

An act relating to enhancing eligibility and work incentives for the Medicaid for Working People with Disabilities program

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Vermont's Medicaid for Working People with Disabilities (MWPD) programs started in January 2000 under the authority of the federal Balanced Budget Act (BBA) of 1997, PL 105-33, Sec. 4733, and Vermont Act 62 of 1999. Known at the federal level as the Medicaid Buy-In Program, it allows people with disabilities to work while obtaining or keeping Medicaid coverage for which they might not have been eligible due to higher incomes from employment. The Program is meant to be a work incentive for Vermonters with disabilities to help them achieve greater economic independence.

The current rules for MWPD in Vermont require that a person:

- 1) Live in Vermont
- 2) Have a disability meeting Social Security Standards
- 3) Be employed or self-employed
- 4) Have countable assets of less than \$5000 for an individual and \$6000 for a couple. These assets do not include savings from earnings generated while on the program.
- 5) Meet a 2 step income process:
 - Step 1* Have net countable family income of less than 250% of the Federal Poverty Level
 - Step 2* Have income no more than the Medicaid Protected Income Level (PIL)
- 6) Step 2 disregards the working disabled individual's earnings, Social Security Disability Insurance (SSDI) and Veteran's disability benefits.

Other features of the program:

- MWPD is not unique to Vermont. 42 states have Medicaid Buy-In programs with variations of rules on assets and countable income.
- The population of individuals eligible for MWPD in Vermont is small, averaging less than 700 people at any given time.
- MWPD addresses one of the biggest fears that individuals with disabilities face when contemplating employment—that of losing healthcare coverage.

- Though effective as a work incentive, it has limitations for some disabled individuals wanting to work.
- Since the program started several attempts have been made to pursue rule changes to enhance MWPD's effectiveness.
- Past changes have been hampered by lack of accurate data to make precise cost analyses of proposals.

Notwithstanding the fact that the proposed language may likely enhance a currently valuable work incentive for individuals with disabilities, DAIL is unable to support the bill at this time. As detailed below, a number of implications with federal law must be considered and explored, which could require significant staff resources across the Agency of Human Services.

1. While increasing the asset limit to \$10,000 may provide more financial stability for MWPD households, the current higher resource limits were implemented via (r)(2) resource disregards of \$3000(single) and \$4000 (couple)(see Supplement 8b of Attachment 2.6-A of the Medicaid State Plan). Any additional increase in the resource limit would require an amendment to the State Plan as well as a revision to the eligibility rule (see HBEE 8.05(d)(1)(ii)). Beyond that it is not clear whether the resource limit would increase to \$10,000 for a single individual, a couple's household, or both.
2. Disregarding the income of a spouse who is a MWPD beneficiary in calculating the other spouse's eligibility for traditional Medicaid addresses a different barrier to employment for married couples. The MPWD eligible spouse must sometimes make a choice of working or causing his/her spouse to lose Medicaid coverage due to the countable income generated from the MWPD spouse's earnings. Eliminating this barrier has the potential of increasing employment. This position was advanced by proponents of an earlier MWPD bill. The concern raised at that time, which continues to apply now, is that spouses of individuals receiving MWPD is not an "eligibility group" so there may not be a way to get an (r)(2) income disregard for them. An earlier analysis concluded that the State would need to explore this idea further with CMS to see if it would be allowable under the law – or a waiver of the law. DVHA's eligibility policy analyst believes the same is true now.
3. Similar to item number 2, this proposed change addresses situations in which a working person with a disability is prevented from accessing MWPD due to the income of the non-MWPD spouse in a couple household. Excluding the spouse's income effectively allows for a separate determination of the working person's Medicaid eligibility to allow that person to utilize the MWPD work incentive. Notwithstanding this fact, federal statute provides that an individual's income eligibility for MWPD shall be tested by looking at the income of the MWPD individual's "family." Since the MWPD individual's family would include his or her spouse, the State, as with #2 above, would need to explore further with CMS the idea of NOT using family income in testing eligibility and, instead, using just the income of the MWPD individual.

4. The proposal to allow an individual with a disability to continue to access MWPD upon reaching full retirement age would promote continued employment for the aging disabled worker. The individual reaching full retirement age who continues to work currently has a potential of losing MPWD because his Social Security benefit becomes countable, thus creating a disincentive to continue working. The current disregard of SSDI (as well as the disregard of veteran's disability benefits), however, was implemented via an (r)(2) income disregard (see Supplement 8a of Attachment 2.6-A of the Medicaid State Plan). Adding Social Security retirement benefits to that list of disregards would require an amendment to the State Plan, as well as a revision to the eligibility rule (see HBEE 8.05(d)(1)(i)(B)).
5. The fifth specific proposal addresses the current rules that prohibit individuals eligible or potentially eligible for developmental services from accessing MWPD. Though there is little difference in the maximum income limits between the developmental services waiver and MWPD, the MWPD program has greater asset limits. Raising the asset limit for individuals seeking developmental services may increase the availability of the program to a few individuals. Allowing individuals receiving developmental services the opportunity to save assets from earnings will eliminate the risk of Medicaid loss due to those saved earnings. The language in the proposal as it is currently written refers to the "Choices for Care" waiver. The current Choices for Care program is incorporated in the Global Commitment waiver so the language needs adjustment to be accurate. One other important note on the language is that in order to be eligible for developmental services, an individual must meet clinical and funding priority criteria, in addition to the financial criteria. Adjusting the language to make this distinction would be necessary.

Thank you for the opportunity to provide this information. I would be happy to address any questions.