



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

December 3, 2019

Gary Randall
Clerk
Michigan House of Representatives
Capitol Building, Room 70
Lansing, MI 48909-7514

Dear Mr. Randall:

Enclosed is a special message to the 100th Michigan Legislature. Under section 17 of article 5 of the Michigan Constitution of 1963, this message transmits information on the affairs of the state and recommends measures I consider necessary and desirable.

Respectfully,

Gretchen Whitmer
Governor

Enclosure

c: The Honorable Lee Chatfield, Speaker of the House of Representatives
The Honorable Chris Greig, Democratic Leader of the House of Representatives



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**SPECIAL MESSAGE
TO THE 100th MICHIGAN LEGISLATURE**

**Healthy Michigan Plan Work Requirements –
Avoiding Waste and Protecting Michigan Taxpayers Compels Legislative Action**

To the Members of the 100th Michigan Legislature:

On November 22, 2019 a lawsuit was filed in federal court challenging the legality of Michigan’s work requirements under federal law. I ask that the legislature act prudently in the best interests of Michigan taxpayers to suspend Michigan’s work requirements while this litigation is pending. If work requirements are blocked by the court, a pause now could avoid up to \$40 million in wasted expense. It could further avoid needlessly confusing hundreds of thousands of our residents with messages soon undone by a federal court.

The courts are taking these claims seriously. The same federal judge who will hear the Michigan case has already enjoined similar work requirements in Arkansas, Kentucky and New Hampshire. At oral argument on the appeal, a three-judge panel “express[ed] skepticism” about the legality of the work requirements, according to the *Washington Post* (Oct. 11, 2019). Among the apparent skeptics was an appointee of President Ronald Reagan.

Seeing inherent uncertainty following ongoing litigation, states with Republican governors have paused work requirement implementation. On October 31, Indiana announced it would “temporarily suspend the reporting requirements of the Gateway to Work program due to a pending legal challenge.” (Press Release, Ind. Family & Social Svcs. Admin., Oct. 31, 2019.) This followed a similar action on October 17 by Arizona, which told the federal government that its decision was “informed by the evolving national landscape concerning Medicaid community engagement programs and ongoing litigation regarding the topic.” (Letter from Jami Snyder, Director, Ariz. Health Care Cost Containment System, to Calder Lynch, Acting Director, Center for Medicare and Medicaid Svcs., Oct. 17, 2019.) New Hampshire suspended its work requirement implementation even before a court entered an injunction. (Letter from Jeffrey A. Meyers, Commissioner, N.H. Dept. of Health and Human Services, to Christopher T. Sununu, Governor, State of New Hampshire, July 8, 2019.)

Michigan has already spent \$28 million on technological and organizational changes aimed at implementing work requirements. This fiscal year, we are on track to spend \$40 million more. If the courts ultimately block these requirements, all this money will have been wasted. Even if the courts block them only temporarily, we risk causing not only waste, but needless confusion for Michigan families who already have enough on their minds.

To give one example: the Michigan Department of Health and Human Services (MDHHS) will soon send detailed information regarding compliance mandates to approximately 200,000 Michiganders, notifying these individuals of steps they must take starting January 1, 2020, if they wish to keep their health insurance. We are working hard to make these notices as clear and meaningful as possible, and the cost of the mailing is approximately \$1 million. If our statute is enjoined in the early months of 2020, then we will need to find a way to communicate to those 200,000 people that our first letter no longer applies and they need not do what we said they must do.

I hope you share my concern with risking tens of millions of taxpayer dollars on implementing a program that faces substantial legal uncertainty. As MDHHS Director Robert Gordon mentioned in letters to legislative leadership on November 25, in order that individuals have the information they need prior to the law's effective date on January 1, 2020, the Department must begin the batch mailings no later than December 9, 2019. The Department could responsibly defer sending those notices if legislative leadership indicated prior to that deadline its willingness to suspend Michigan's work requirements before the law's effective date. I urge you to follow Republican efforts across the country and agree on this commonsense path.

Respectfully,



Gretchen Whitmer
Governor