

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

COM. SUB. FOR
HOUSE BILL No. 4181

(By Delegates MEZZATESTA, MICHAEL RYAN,)
J. MARTIN, BURKE, DOUGLAS AND LEACH



Passed MARCH 9, 1996

In Effect NINETY DAYS FROM Passage



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FOR
H. B. 4181

(BY DELEGATES MEZZATESTA, MICHAEL, RYAN,
J. MARTIN, BURKE, DOUGLAS AND LEACH)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article thirty-three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto six new sections, designated sections seven, eight, nine, ten, eleven and twelve, all relating to creating the breast and cervical cancer diagnostic and treatment fund; defining terms; setting forth the composition of the fund; providing for the appropriation of moneys; providing that nothing in the article will require an appropriation by the Legislature; providing for the administration of the fund; setting forth the advisory committee duties; requiring the committee to study the possibility of establishing a similar fund for patients in need of diagnostic and treatment services for prostate and colon cancer; setting forth the manner of establishing covered services; authorizing the promulgation of rules; establishing financial and medical eligibility; providing an application process; and providing for disbursement of funds.

Be it enacted by the Legislature of West Virginia:

That section two, article thirty-three, chapter sixteen of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto six new sections, designated sections seven, eight, nine, ten, eleven and twelve, all to read as follows:

**ARTICLE 33. BREAST AND CERVICAL CANCER PREVENTION
AND CONTROL ACT.**

§16-33-2. Definitions.

1 As used in this article:

2 (a) "Advisory committee" means the medical advisory
3 committee to the breast and cervical cancer detection and
4 education program coalition established pursuant to the
5 provisions of section five of this article.

6 (b) "Approved organization" means an organization
7 approved by the director to provide medical services un-
8 der section four of this article.

9 (c) "Bureau" means the state bureau of public health
10 established pursuant to the provisions of article one of this
11 chapter.

12 (d) "Department" means the department of health and
13 human resources.

14 (e) "Director" means the director of the division of
15 health.

16 (f) "Unserved or underserved populations" means
17 persons having inadequate access and financial resources
18 to obtain breast and cervical cancer screening and detec-
19 tion services, including persons who lack health insurance
20 or whose health insurance coverage does not cover these
21 services.

22 (g) "Fund" means the breast and cervical cancer diag-
23 nostic and treatment fund.

24 (h) "Qualified applicant" means a person who meets
25 the financial and medical eligibility guidelines of this

26 article.

27 (i) "Provider" means a physician, hospital or medical
28 provider currently licensed, operating or practicing in this
29 state.

**§16-33-7. Establishment of breast and cervical cancer
diagnostic and treatment fund.**

1 (a) There is hereby established the breast and cervical
2 cancer diagnostic and treatment fund which shall provide
3 financial assistance for the medical care of indigent pa-
4 tients for diagnostic and treatment services for breast and
5 cervical cancer.

6 (b) The fund may be comprised of moneys appropri-
7 ated to the fund by the Legislature, allocated to the fund
8 by the federal government and all other sums designated
9 for deposit in the fund from any source, public or private.

10 (c) The fund shall be administered by the office of
11 maternal and child health within the bureau of public
12 health. The bureau shall file an annual report with the
13 joint committee on government and finance describing the
14 operation and status of the fund, acts, policies, practices or
15 procedures of the bureau in implementing the provisions
16 of this article, and the bureau's recommendations as to
17 changes in law or policy which it deems necessary or ap-
18 propriate.

19 (d) Nothing in this article may be construed or inter-
20 preted to mean that covered diagnostic and treatment
21 services are required to be provided by the bureau or the
22 department. Nothing in this article shall be construed to
23 mandate funding for the breast and cervical diagnostic
24 and treatment fund or to require any appropriation by the
25 Legislature to the fund.

**§16-33-8. Responsibilities of advisory committee; establish-
ment of covered services, limitation of services
and procedures; authorization for payment;
promulgation of rules; annual reports.**

1 (a) The advisory committee shall establish procedures
2 and requirements regarding participation in the fund,
3 including, but not limited to, the following:

4 (1) Establishing a list of covered services approved for
5 payment through the fund, including (A) diagnostic and
6 treatment services for breast or cervical cancer or a condi-
7 tion suggestive of cancer, and (B) ancillary diagnostic
8 studies which may be authorized only when it is deter-
9 mined by the bureau to be directly related to the confir-
10 mation of a diagnosis of cancer or is necessary for treat-
11 ment planning;

12 (2) Establishing procedures for emergency admissions
13 or immediate patient entry into the health care system
14 upon a determination that covered services are necessary
15 so as to ensure prompt testing, diagnosis or treatment of
16 breast or cervical cancer.

17 (3) Setting a limitation on days of service covered by
18 the fund, and authorizing that the number of days for
19 reimbursement be based on the medical condition of the
20 patient and the procedure to be performed;

21 (4) Reviewing requests and providing authorization
22 for payment of diagnostic or treatment services covered
23 by the fund;

24 (5) Promulgating rules, in conjunction with the bu-
25 reau, in accordance with the provisions of chapter
26 twenty-nine-a of this code regarding the administration of
27 the fund; and

28 (6) Submitting annual reports to the state bureau of
29 public health regarding the operation and progress of the
30 fund, the number of patients treated through the fund, and
31 other statistical data as may be required by the bureau.

32 (b) The advisory committee shall study the possibility
33 of and the cost associated with establishing a fund to pro-
34 vide financial assistance to qualified applicants for diag-
35 nostic and treatment services for prostate and colon can-
36 cer. The committee shall provide a report to the joint

37 committee on government and finance on or before the
38 first day of January, one thousand nine hundred
39 ninety-seven.

§16-33-9. Financial eligibility.

1 To be eligible for services under the fund, a patient's
2 income must be at or below two hundred percent of the
3 federal poverty level in accordance with the prevailing
4 national poverty income guidelines and be medically
5 eligible for participation pursuant to the provisions of
6 section ten of this article. No patient who is covered by
7 medical insurance, medicaid or medicare may be finan-
8 cially eligible for participation in the fund.

§16-33-10. Medical eligibility.

1 (a) In addition to the requirements contained in sec-
2 tion nine of this article, in order to be eligible for services
3 under the fund, a patient shall have a condition strongly
4 suspicious of cancer which requires diagnostic services to
5 confirm the preliminary diagnosis to be medically eligible
6 for diagnostic authorization. The bureau may authorize
7 only those services determined by the advisory committee
8 to be medically necessary to confirm a preliminary diag-
9 nosis.

10 (b) A positive pathology report is required before
11 treatment services may be authorized by the fund.

§16-33-11. Application forms and process.

1 (a) The bureau shall develop authorization request
2 forms and make the forms available to the provider upon
3 request.

4 (b) An application for inpatient diagnostic services
5 shall be accompanied by a written, signed statement from
6 the attending physician which includes the medical basis
7 for requested inpatient services and explains why the ser-
8 vices may not be performed on an outpatient basis.

§16-33-12. Reimbursement process.

1 (a) The fund is the payor of last resort. Payment for
2 procedures shall be made at the prevailing rate established
3 by medicare.

4 (b) A claim for authorized services rendered shall be
5 processed in accordance with rules promulgated by the
6 bureau.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

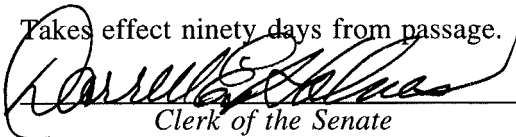


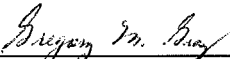
Chairman Senate Committee


Chairman House Committee

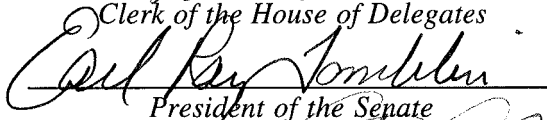
Originating in the House.

Takes effect ninety days from passage.


Clerk of the Senate



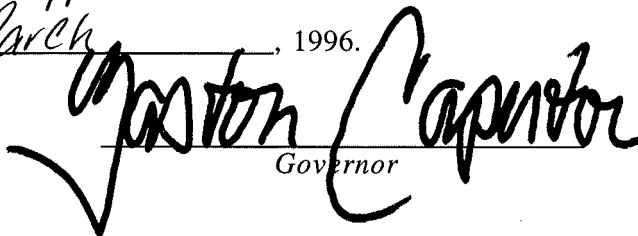
Clerk of the House of Delegates


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 1996.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 9:12 am