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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4579

(By Delegates Compton and Leach)



Passed March 18, 2000

In Effect Ninety Days from Passage

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LEGISLATIVE

SECOND ENROLLMENT

COMMITTEE SUBSTITUTE

FOR

H. B. 4579

(BY DELEGATES COMPTON AND LEACH)

[Passed March 18, 2000; in effect ninety days from passage.]

AN ACT to amend article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen, relating to behavioral health services; providing for summary review procedure for certain services; requiring the secretary of the department of health and human resources to direct the revision of the state mental health plan, appoint an advisory committee, and requiring reporting of the revisions; authorizing the secretary to initiate a summary review process for certain behavioral health services; requiring notice; requiring certain findings; providing the right of appeal; and providing for an expiration date for the provisions of this section.

Be it enacted by the Legislature of West Virginia:

That article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nineteen, to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-19. Summary review for certain behavioral health facilities and services.

1 (a) A certificate of need as provided for in article two-d,
2 chapter sixteen of this code is not required by an entity propos-
3 ing additional behavioral health care services, but only to the
4 extent necessary to gain federal approval of the medicaid
5 MR/DD waiver program, if a summary review is performed in
6 accordance with the provisions of this section.

7 (b) Prior to initiating any summary review, the secretary
8 shall direct the revision of the state mental health plan as
9 required by the provisions of 42 U.S.C. 300x and section 4,
10 article one-a, chapter twenty-seven of this code. In developing
11 those revisions, the secretary is to appoint an advisory commit-
12 tee composed of representatives of the associations representing
13 providers, child care providers, physicians and advocates. The
14 secretary shall appoint the appropriate department employees
15 representing regulatory agencies, reimbursement agencies and
16 oversight agencies of the behavioral health system. The
17 members shall submit the revisions to the secretary for final
18 approval and the report is to be submitted to the Legislature and
19 governor on the first day of January, two thousand one.

20 (c) If the secretary of the department of health and human
21 resources determines that specific services are needed but
22 unavailable, he or she shall provide notice of the department's
23 intent to develop those services. Notice may be provided
24 through publication in the state register, publication in newspa-
25 pers, or a modified request for proposal as developed by the
26 secretary.

27 (d) The secretary may initiate a summary review of
28 additional behavioral health care services, but only to the extent
29 necessary to gain federal approval of the medicaid MR/DD
30 waiver program, by recommending exemption from the
31 provisions of article two-d, chapter sixteen of this code to the
32 health care authority. The recommendation is to include the
33 following findings:

34 (1) That the proposed service is consistent with the state
35 health plan and the state mental health plan;

36 (2) That the proposed service is consistent with the depart-
37 ment's programmatic and fiscal plan for behavioral health
38 services;

39 (3) That the proposed service contributes to providing
40 services that prevent admission to restrictive environments or
41 enables an individual to remain in a non-restrictive environ-
42 ment;

43 (4) That the proposed service contributes to reducing the
44 number of individuals admitted to inpatient or residential
45 treatment programs or services;

46 (5) If applicable, that the proposed service will be
47 community-based, locally accessible, provided in an appropri-
48 ate setting consistent with the unique needs and potential of
49 each client and his or her family, and located in an area that is
50 unserved or underserved or does not allow consumers a choice
51 of providers; and

52 (6) That the secretary is determining that sufficient funds
53 are available for the proposed service without decreasing access
54 to or provision of existing services. The secretary may from
55 time to time transfer funds pursuant to the general provisions of
56 the budget bill.

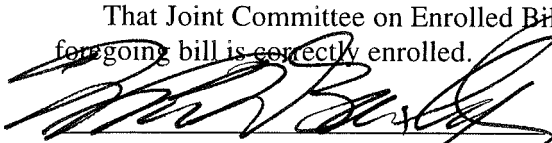
57 (e) The secretary's findings required by this section shall be
58 filed with the secretary's recommendation and appropriate
59 documentation. If the secretary's findings are supported by the
60 accompanying documentation, the proposal shall not require a
61 certificate of need.

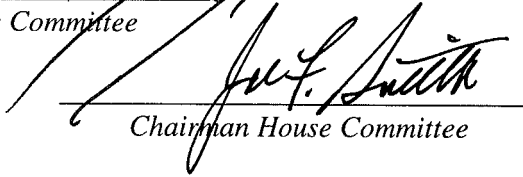
62 (f) Any entity that does not qualify for summary review
63 shall be subject to a certificate of need review.

64 (g) Any provider of the proposed services denied authoriza-
65 tion to provide those services pursuant to the summary review,
66 has the right to appeal that decision to the state agency in
67 accordance with the provisions of section ten, article two-d,
68 chapter sixteen of this code.

69 (h) The provisions of this section shall expire on the
70 thirtieth day of June, two thousand three.

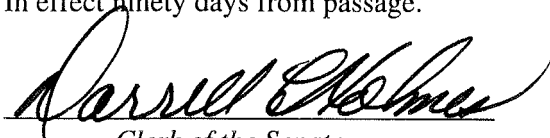
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

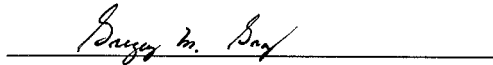

Chairman Senate Committee

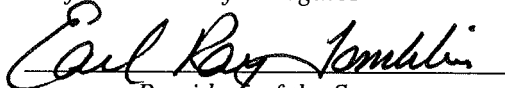

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

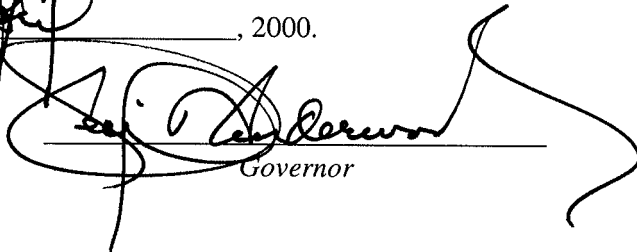

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of July, 2000.


Governor

PRESENTED TO THE

GOVERNOR,

Date 3/31/00

Time 4:30pm