

FILED

2003 MAR 27 P 4:43

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

Regular Session, 2003

---

**ENROLLED**

SENATE BILL NO. 608

(By Senator Prezioso )

---

PASSED March 8, 2003

In Effect 90 days from **Passage**

FILED

2003 MAR 27 P 4: 43

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

**Senate Bill No. 608**

(BY SENATOR PREZIOSO)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section nineteen, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing the continuance of summary certificate of need reviews for proposed behavioral health services necessary to maintain federal approval of the medicaid mentally retarded/developmentally disabled waiver program.

*Be it enacted by the Legislature of West Virginia:*

That section nineteen, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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 in article two-d,
- 2 chapter sixteen of this code is not required by an entity

3 proposing additional behavioral health care services, but  
4 only to the extent necessary to gain federal approval of the  
5 medicaid MR/DD waiver program, if a summary review is  
6 performed in accordance with the provisions of this  
7 section.

8 (b) Prior to initiating any summary review, the secretary  
9 shall direct the revision of the state mental health plan as  
10 required by the provisions of 42 U. S. C. 300x and section  
11 four, article one-a, chapter twenty-seven of this code. In  
12 developing those revisions, the secretary is to appoint an  
13 advisory committee composed of representatives of the  
14 associations representing providers, child care providers,  
15 physicians and advocates. The secretary shall appoint the  
16 appropriate department employees representing regulatory  
17 agencies, reimbursement agencies and oversight agencies  
18 of the behavioral health system.

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

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

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

35 (2) That the proposed service is consistent with the  
36 department's programmatic and fiscal plan for behavioral  
37 health services;

38 (3) That the proposed service contributes to providing  
39 services that prevent admission to restrictive environments  
40 or enables an individual to remain in a nonrestrictive  
41 environment;

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

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

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

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

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

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

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

*Larry I. Murr*

.....  
Chairman Senate Committee

*Greg Butcher*

.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Russell Helmer*

.....  
Clerk of the Senate

*Bruce A. Sand*

.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*

.....  
President of the Senate

*Harold Skiff*

.....  
Speaker House of Delegates

The within *is approved* this the *27<sup>th</sup>*

Day of *March*, 2003.

*Bob Wise*

.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/03

Time 9:50am