WEST VIRGINIA CODE CHAPTER 9 ARTICLE 10

WV Legislature

§9-10-1. Definitions.

As used in this article, the term:

(1) "Secretary" means the Secretary of the West Virginia Department of Human Services or his or her designee.

(2) "Fund" means the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

(3) "Traumatic brain injury" means an acquired injury to the brain, including brain injuries caused by anoxia due to near drowning. "Traumatic brain injury" does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma.

(4) "Spinal cord injury" means a traumatic injury to the spinal cord that results in a permanent loss of sensation and voluntary movement below the level of the lesion.

WV Legislature

§9-10-2. Fund continued under department.

(a) The special revenue account in the State Treasury known as the "West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund," which was previously authorized by §18-10K-1 *et seq*. of this code, is continued.

(b) All powers and duties of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board are transferred to the Secretary.

(c) All powers and duties of the West Virginia Division of Rehabilitation Services related to administration of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund are transferred to the Secretary.

WV Legislature

§9-10-3. Administration of Fund; administrative fees; Fund use.

(a) The West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund is subject to the annual appropriation of funds by the Legislature. The West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the Fund.

(b) All moneys collected, received and deposited into the State Treasury and credited to the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund shall be expended by the Secretary exclusively in accordance with the uses and criteria set forth in this article. Expenditures from this Fund for any other purposes are void.

(c) The Fund shall be administered by the Department of Human Services: *Provided*, That the Department may not charge a fee to administer the Fund.

(d) Nothing in this article may be construed to mandate funding for the Fund or to require any appropriation by the Legislature.

(e) Moneys in the Fund shall be used to pay for services that will increase opportunities for and enhance the achievement of functional independence, and a return to a productive lifestyle for individuals who have suffered a traumatic brain injury or a spinal cord injury.

(f) Services that are eligible for payment by the Fund shall include, but not be limited to:

(1) Case management;

(2) Rehabilitative therapies and services;

(3) Attendant care;

(4) Home accessibility modifications;

(5) Equipment necessary for activities; and

(6) Family support services.

(g) Funds shall be expended according to the priorities and criteria for disbursement established by the secretary under section four of this article, and pursuant to legislative rules authorized in section five of this article.

WV Legislature

§9-10-4. Criteria and priorities for use of Fund.

(a) The Secretary shall establish priorities and criteria for the disbursement of moneys in the Fund by conducting at least one annual public meeting in each of the state's three congressional districts in existence on January 1, 2018, to identify the needs of citizens with traumatic brain injuries and spinal cord injuries, and to identify the gaps in services to these citizens. Public meetings held pursuant to the requirements of this section shall be noticed and advertised as public meetings, and the Secretary shall accept public comments for not less than thirty days following each public meeting.

(b) On or before December 31 of each year the Secretary shall issue an annual report to the Governor and to the Legislative Oversight Commission on Health and Human Resources Accountability, with recommendations for meeting the identified needs within the existing programs, proposing statutory changes to facilitate the delivery of services, improving coordination of services and summarizing its actions during the preceding year.

(c) Moneys expended for services described under section three of this article shall be as a payer of last resort and only for citizens of this state. An individual shall use comparable benefits and services that are available prior to the expenditure of moneys available to that individual through the Fund.

WV Legislature

§9-10-5. Promulgation of legislative rules.

(a) The Secretary may propose legislative rules for promulgation, in accordance with the provisions of §29A-3-1 et seq. of this code, necessary for the transaction of its business or to carry out the purposes of this article. The rules shall include priorities and criteria for the disbursement of moneys in the Fund.

(b) The rules of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board previously promulgated pursuant to section three, §18-10K-1 et seq. of this code shall remain in force and effect until the promulgation of new or additional rules by the Secretary.

WV Legislature

§9-10-6. Legislative Audit.

[Repealed]

WV Legislature