WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

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ENROLLED

HOUSE BILL No. 4242

(By Mr. Del White & Nells)

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Passed February 26, 1988

In Effect From Passage
ENROLLED

H. B. 4242

(By Delegates White and Wells)

[Passed February 26, 1988; in effect from passage.]

AN ACT to amend and reenact section twelve, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto three new sections, designated sections fourteen, fifteen and sixteen, all relating to the medicaid program; maternity and infant care; health care facilities financed by bonds and rules regarding reimbursement of capital costs; drug formulary and drug utilization review; health care provider reimbursement study by department; hearings; report to Legislature.

Be it enacted by the Legislature of West Virginia:

That section twelve, article five, chapter nine 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 three new sections, designated sections fourteen, fifteen and sixteen, all to read as follows:

CHAPTER 9. HUMAN SERVICES.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-12. Medicaid program; maternity and infant care.

1 (a) The Legislature finds that high rates of infant mortality and morbidity are costly to the state in terms of human suffering and of expenditures for long-term
institutionalization, special education and medical care. It is well documented that appropriate care during pregnancy and delivery can prevent many of the expensive, disabling problems our children experience. There exists a crisis in this state relating to the availability of obstetrical services, particularly to patients in rural areas, and to the cost patients must pay for obstetrical services. The availability of obstetrical service for medicaid patients enables these patients to receive quality medical care and to give birth to healthier babies and, consequently, improve the health status of the next generation.

The Legislature further recognizes that public and private insurance mechanisms remain inadequate, and poor women and children are among the most likely to be without insurance. Generally, low-income, uninsured children receive half as much health care as their insured counterparts. The state is now investing millions to care for sick infants whose deaths and disabilities could have been avoided.

It is the intent of the Legislature that the department of human services participate in the medicaid program for indigent children and pregnant women established by Congress under the Consolidated Omnibus Budget Reconciliation Act (COBRA), Public Law 99-272, the Sixth Omnibus Budget Reconciliation Act (SOBRA), Public Law 99-504, and the Omnibus Budget Reconciliation Act (OBRA), Public Law 100-203.

(b) The department of human services shall:

(1) Extend the medicaid coverage to pregnant women and their newborn infants to one hundred fifty percent of the federal poverty level, effective the first day of July, one thousand nine hundred eighty-eight.

(2) As provided under COBRA, SOBRA, and OBRA, effective the first day of July, one thousand nine hundred eighty-eight, infants shall be included under the medicaid coverage with all children eligible for medicaid coverage born on or after the first day of October, one thousand nine hundred eighty-three, whose family incomes are at or below one hundred percent of
the federal poverty level and continuing until such children reach the age of eight years.

(3) Elect the federal options provided under COBRA, SOBRA, and OBRA, impacting pregnant women and children below the poverty level: Provided, however, That no provision in this article shall restrict the department of human services in exercising new options provided by or to be in compliance with new federal legislation that further expands eligibility for children and pregnant women.

(4) Enter into an inter-agency agreement with the department of health whereby the department of health shall be responsible for the implementation and program design for a maternal and infant health care system to reduce infant mortality in West Virginia. The health system design shall include quality assurance measures, case management and patient outreach activities. The department of human services shall assume responsibility for claims processing in accordance with established fee schedules, and financial aspects of the program necessary to receive available federal dollars and to meet federal rules and regulations.

(5) The department of health shall transfer to the department of human services through inter-agency agreement such state funds as are necessary to implement this program to the department of human services medical services account; and the department of human services shall, through inter-program transfer, provide such state funds as are necessary to implement this program.

(6) Beginning the first day of July, one thousand nine hundred eighty-eight, the state department of human services shall increase to no less than six hundred dollars the reimbursement rates under the medicaid program for prenatal care, delivery and post-partum care.

(c) In order to be in compliance with the provisions of OBRA, through rules and regulations the department shall ensure that pregnant women and children whose
incomes are above the Aid to Families and Dependent
Children (AFDC) payment level are not required to
apply for entitlements under the AFDC program as a
condition of eligibility for medicaid coverage. Further,
the department shall develop a short, simplified
pregnancy/pediatric application of no more than three
pages, paralleling the simplified OBRA standards.

(d) Any woman who establishes eligibility under this
section shall continue to be treated as an eligible
individual without regard to any change in income of
the family of which she is a member until the end of
the sixty day period beginning on the last day of her
pregnancy.

(e) Nothing in this section shall be construed to give
the department of health any jurisdiction over the
medicaid program or its operations.

§9-5-14. Medicaid program; health care facilities fi­
nanced by bonds; rules regarding reimbur­
sement of capital costs.

(a) The Legislature finds and declares that a number
of health care facilities have been financed by public
bonded indebtedness, and as a result of policies, rules,
regulations and standards which may be in conflict, the
facilities and the health and welfare of those citizens
served by such facilities are in jeopardy. The provisions
of subsection (b) are enacted for the purpose of address­
ing this problem as a short term solution.

(b) As to any health care facility licensed under
article five-c, chapter sixteen of this code constructed
after the first day of April, one thousand nine hundred
eighty-one, and affected on or after that date by the
reimbursement methodology implemented by the de­
partment regarding standard appraised value, begin­
ing on the first day of April, one thousand nine
hundred eighty-eight, and for a one year period only,
ending on the thirty-first day of March, one thousand
nine hundred eighty-nine, all in compliance with federal
rules and regulations, the department shall reimburse
such health care facilities no less than any actual annual
capital costs including, but not limited to, debt service,
lease payments or costs of comparable financing arrangements incurred in connection with any capital expenditure approved pursuant to article two-d, chapter sixteen of this code, or any rule or regulation promulgated thereunder or in conjunction with the financing of such capital expenditure pursuant to article two-c, chapter thirteen of this code, whichever is greater; and in no event, for the purpose of reimbursement of such capital costs, shall the value of any health care facility licensed pursuant to article five-c, chapter sixteen of this code, be deemed to be less than the greater of the aggregate principal amount of any public bond issue undertaken pursuant to the provisions of article two-c, chapter thirteen of this code or the maximum capital expenditure approved pursuant to article two-d, chapter sixteen of this code, or any rule or regulation promulgated thereunder, and any appraisal made by the department in connection therewith shall include costs related to the financing of the bond issue or the maximum capital expenditure approved pursuant to article two-d, chapter sixteen of this code, as applicable: Provided, That said values may be reduced by (a) any functional obsolescence which is determined and identified annually pursuant to any rule or regulation promulgated hereunder and (b) the pro rata share of such value which is attributable to capital expenditures incurred with respect to facilities which provide services which are not eligible for reimbursement under Title XIX of the Social Security Act: Provided, however, That the department shall not exceed the medicare upper payment limit for medicaid in making any reimbursement pursuant to this section.

As to any such health care facility constructed after the first day of April, one thousand nine hundred eighty-one, and affected on or after that date by the reimbursement methodology implemented by the department regarding standard appraised value, with respect to reimbursement to the state by such health care facility arising from adjustment of projected rates, the department shall provide for the adjustment of projected rates based upon values which are consistent with the provisions of this section and based upon the actual
occupancy experience of the health care facility during
the projected rate period, all in compliance with federal
rules and regulations.

(c) The medicaid payments that a long-term care
facility would otherwise receive shall not be reduced in
any manner as a result of the operation of this section.

§9-5-15. Medicaid program; drug formulary and drug
utilization review.

The drug formulary committee of the department of
human services shall meet no less than four times each
year and be responsible for the development of a drug
formulary which shall consist of cost effective federal
food and drug administration approved generic drugs,
when applicable. Medicaid shall pay for only these
generic products, when applicable, in accordance with
federal medicaid regulations and guidelines.

The commissioner shall implement a drug utilization
review program to assure that prescribing and dispens-
ing of drug products result in the most rational cost-
effective medication therapy for medicaid patients.

§9-5-16. Medicaid program; legislative purpose; health
care provider reimbursement study by de-
partment; hearings; report.

(a) It is the purpose of the Legislature in enacting
this section to encourage the long-term well planned
development of fair and equitable reimbursement
methodologies and systems for all health care providers
reimbursed under the medicaid program in its entirety,
and to ensure that reimbursement for services of all
such health care providers is determined without undue
discrimination or preference and with full consideration
of adequate and reasonable compensation to such health
care providers for the costs of providing such services.

(b) In order that the Legislature become better
informed as to these matters, and appropriately ap-
praise and balance the interests among all such health
care providers and between all such health care
providers and the interests of all the state's citizenry, the
Legislature hereby directs the commissioner of the
department of human services to identify, explore, study
and consider the potential benefits and risks associated
with the adoption of alternative and emerging and state-of-the-art concepts in reimbursement methodology for
such health care providers.

(c) Toward this end, the commissioner shall conduct
inquiries and hold hearings in order to provide all
health care providers and other interested persons the
opportunity to comment. In carrying out the provisions
of this section, the commissioner shall have jurisdiction
over such persons, whether such health care providers
or not, as may be in the opinion of the commissioner
necessary to the exercise of the mandate set forth in this
section, and may compel attendance before the depart-
ment, take testimony under oath and compel the
production of papers or other documents. Upon reason-
able requests by the commissioner, all other state
agencies shall cooperate in carrying out the provisions
of this section.

(d) The commissioner shall make monthly reports to
the Joint Committee on Government and Finance,
created by article three, chapter four of this code, or a
subcommittee designated by the Joint Committee, and
at the completion of such identification, exploration,
study and consideration, present to the Joint Committee
or its subcommittee, no later than the first day of
December, one thousand nine hundred eighty-eight, a
summary report which shall set forth all activities
pursuant to the mandate of the Legislature as set forth
herein, any policy decisions reached and initiatives
undertaken and findings and conclusions as well as any
recommendations for legislation. The commissioner
shall also make such full report to the Legislature no
later than the first day of the regular session of the
Legislature in the year one thousand nine hundred
eighty-nine.

(e) Nothing in this section shall be construed to give
the Legislature any jurisdiction over the medicaid
program or its operations.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within .................................. this the .................................. day of .................................., 1988.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/2/38
Time 5:07 p.m.