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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



# ENROLLED

HOUSE BILL No. 4242

(By ~~Mr~~ Del. White + Kells )



Passed Feb. 26, 1988

In Effect From Passage

**ENROLLED**  
**H. B. 4242**

(By DELEGATES WHITE and WELLS)

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

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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
- 2 mortality and morbidity are costly to the state in terms
- 3 of human suffering and of expenditures for long-term

4 institutionalization, special education and medical care.  
5 It is well documented that appropriate care during  
6 pregnancy and delivery can prevent many of the  
7 expensive, disabling problems our children experience.  
8 There exists a crisis in this state relating to the  
9 availability of obstetrical services, particularly to  
10 patients in rural areas, and to the cost patients must pay  
11 for obstetrical services. The availability of obstetrical  
12 service for medicaid patients enables these patients to  
13 receive quality medical care and to give birth to  
14 healthier babies and, consequently, improve the health  
15 status of the next generation.

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

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

32 (b) The department of human services shall:

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

37 (2) As provided under COBRA, SOBRA, and OBRA,  
38 effective the first day of July, one thousand nine  
39 hundred eighty-eight, infants shall be included under  
40 the medicaid coverage with all children eligible for  
41 medicaid coverage born on or after the first day of  
42 October, one thousand nine hundred eighty-three, whose  
43 family incomes are at or below one hundred percent of

44 the federal poverty level and continuing until such  
45 children reach the age of eight years.

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

54 (4) Enter into an inter-agency agreement with the  
55 department of health whereby the department of health  
56 shall be responsible for the implementation and pro-  
57 gram design for a maternal and infant health care  
58 system to reduce infant mortality in West Virginia. The  
59 health system design shall include quality assurance  
60 measures, case management and patient outreach  
61 activities. The department of human services shall  
62 assume responsibility for claims processing in accor-  
63 dance with established fee schedules, and financial  
64 aspects of the program necessary to receive available  
65 federal dollars and to meet federal rules and  
66 regulations.

67 (5) The department of health shall transfer to the  
68 department of human services through inter-agency  
69 agreement such state funds as are necessary to imple-  
70 ment this program to the department of human services  
71 medical services account; and the department of human  
72 services shall, through inter-program transfer, provide  
73 such state funds as are necessary to implement this  
74 program.

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

81 (c) In order to be in compliance with the provisions  
82 of OBRA, through rules and regulations the department  
83 shall ensure that pregnant women and children whose

84 incomes are above the Aid to Families and Dependent  
85 Children (AFDC) payment level are not required to  
86 apply for entitlements under the AFDC program as a  
87 condition of eligibility for medicaid coverage. Further,  
88 the department shall develop a short, simplified  
89 pregnancy/pediatric application of no more than three  
90 pages, paralleling the simplified OBRA standards.

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

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

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

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

9 (b) As to any health care facility licensed under  
10 article five-c, chapter sixteen of this code constructed  
11 after the first day of April, one thousand nine hundred  
12 eighty-one, and affected on or after that date by the  
13 reimbursement methodology implemented by the de-  
14 partment regarding standard appraised value, begin-  
15 ning on the first day of April, one thousand nine  
16 hundred eighty-eight, and for a one year period only,  
17 ending on the thirty-first day of March, one thousand  
18 nine hundred eighty-nine, all in compliance with federal  
19 rules and regulations, the department shall reimburse  
20 such health care facilities no less than any actual annual  
21 capital costs including, but not limited to, debt service,

22 lease payments or costs of comparable financing  
23 arrangements incurred in connection with any capital  
24 expenditure approved pursuant to article two-d, chapter  
25 sixteen of this code, or any rule or regulation promul-  
26 gated thereunder or in conjunction with the financing  
27 of such capital expenditure pursuant to article two-c,  
28 chapter thirteen of this code, whichever is greater; and  
29 in no event, for the purpose of reimbursement of such  
30 capital costs, shall the value of any health care facility  
31 licensed pursuant to article five-c, chapter sixteen of this  
32 code, be deemed to be less than the greater of the  
33 aggregate principal amount of any public bond issue  
34 undertaken pursuant to the provisions of article two-c,  
35 chapter thirteen of this code or the maximum capital  
36 expenditure approved pursuant to article two-d, chapter  
37 sixteen of this code, or any rule or regulation promul-  
38 gated thereunder, and any appraisal made by the  
39 department in connection therewith shall include costs  
40 related to the financing of the bond issue or the  
41 maximum capital expenditure approved pursuant to  
42 article two-d, chapter sixteen of this code, as applicable:  
43 *Provided*, That said values may be reduced by (a) any  
44 functional obsolescence which is determined and  
45 identified annually pursuant to any rule or regulation  
46 promulgated hereunder and (b) the pro rata share of  
47 such value which is attributable to capital expenditures  
48 incurred with respect to facilities which provide services  
49 which are not eligible for reimbursement under Title  
50 XIX of the Social Security Act: *Provided, however*, That  
51 the department shall not exceed the medicare upper  
52 payment limit for medicaid in making any reimburse-  
53 ment pursuant to this section.

54 As to any such health care facility constructed after  
55 the first day of April, one thousand nine hundred eighty-  
56 one, and affected on or after that date by the reimbur-  
57 sement methodology implemented by the department  
58 regarding standard appraised value, with respect to  
59 reimbursement to the state by such health care facility  
60 arising from adjustment of projected rates, the depart-  
61 ment shall provide for the adjustment of projected rates  
62 based upon values which are consistent with the  
63 provisions of this section and based upon the actual

64 occupancy experience of the health care facility during  
65 the projected rate period, all in compliance with federal  
66 rules and regulations.

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

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

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

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

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

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

11 (b) In order that the Legislature become better  
12 informed as to these matters, and appropriately ap-  
13 praise and balance the interests among all such health  
14 care providers and between all such health care  
15 providers and the interests of all the state's citizenry, the  
16 Legislature hereby directs the commissioner of the

17 department of human services to identify, explore, study  
18 and consider the potential benefits and risks associated  
19 with the adoption of alternative and emerging and state-  
20 of-the-art concepts in reimbursement methodology for  
21 such health care providers.

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

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

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



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

*Blaine O. Wilcox*  
-----  
Chairman Senate Committee

*Bernard V. Kelly*  
-----  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*John C. Sticks*  
-----  
Clerk of the Senate

*Donald L. Kopp*  
-----  
Clerk of the House of Delegates

*Sam Tomblin*  
-----  
President of the Senate

*W. H. C. [Signature]*  
-----  
Speaker of the House of Delegates

The within *approved* this the *8th*  
*March* day of \_\_\_\_\_, 1988.

*Quinn Tamm*  
-----  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/2/88

Time 5:07 p.m.