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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 2251

(By ~~Mr.~~ Del. P. White + Gallagher)

— ● —

Passed March 9, 1991

In Effect From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2251
(By DELEGATES P. WHITE AND GALLAGHER)

[Passed March 9, 1991; in effect from passage.]

AN ACT to amend chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-a, relating to establishing within the state treasury a new revolving fund entitled the medicaid uncompensated care fund to receive money from all sources both public and private; setting forth legislative findings; allowing such moneys to be used as a portion of state revenue in order to receive federal financial participation for the medicaid program so that eligible disproportionate share hospitals receive reimbursement for services rendered to medicaid beneficiaries; restricting uses of such funds; administration of the fund; establishing criteria for disproportionate share hospitals; and requiring certain reports to the Legislature.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4A. MEDICAID UNCOMPENSATED CARE FUND.

§9-4A-1. Legislative findings.

1 The Legislature finds and declares the following:

2 (a) Federal medicaid laws encourage special recogni-
3 tion of disproportionate share hospitals for medicaid
4 reimbursement purposes.

5 (b) These same federal laws permit and encourage the
6 state to fund the medicaid program through flexible
7 means, including public and private contributions to
8 serve as the state share for purposes of federal financial
9 participation.

10 (c) Because of state budget constraints, moneys paid
11 to disproportionate share hospitals under the medicaid
12 program have not been sufficient to allow the hospitals
13 to recover adequate reimbursement for the costs
14 associated with providing appropriate services to
15 medicaid clients of this state.

16 (d) The policy of this state is to encourage dispro-
17 portionate share hospitals to continue providing health care
18 services to the needy citizens of West Virginia; such
19 encouragement and support are increasingly important
20 when combined with federal financial participation.

21 (e) Cost shifting is a serious problem and it is the
22 intent of the Legislature to reduce cost shifting.

§9-4A-2. Creation of medicaid uncompensated care fund.

1 (a) There is hereby created in the state treasury a
2 special revolving fund known as the medicaid uncom-
3 pensated care fund. All moneys deposited or accrued in
4 this fund shall be used exclusively:

5 (1) To provide the state's share of the federal medicaid
6 program funds in order to improve inpatient payments
7 to disproportionate share hospitals; and

8 (2) To cover administrative cost incurred by the
9 department of health and human services and associated
10 with the medicaid program and this fund: *Provided*,
11 That no expenditures may be made to cover said
12 administrative costs for any fiscal year after one
13 thousand nine hundred ninety-two, except as appro-
14 priated by the Legislature.

15 (b) Moneys from the following sources may be placed
16 into the fund:

17 (1) All public funds transferred by any public agency
18 to the department of health and human resources
19 medicaid program for deposit in the fund as contem-
20 plated or permitted by applicable federal medicaid
21 laws;

22 (2) All private funds contributed, donated or be-
23 queathed by corporations, individuals or other entities
24 to the fund as contemplated and permitted by applicable
25 federal medicaid laws;

26 (3) Interest which accrued on amounts in the fund
27 from sources identified in subdivisions (1) and (2) of this
28 subsection; and

29 (4) Federal financial participation matching the
30 amounts referred to in subdivisions (1), (2) and (3) of this
31 subsection, in accordance with section 1902 (a) (2) of the
32 Social Security Act.

33 (c) Any balance remaining in the medicaid uncompen-
34 sated care fund at the end of any state fiscal year shall
35 not revert to the state treasury but shall remain in this
36 fund and shall be used only in a manner consistent with
37 this article.

38 (d) Moneys received into the fund shall not be counted
39 or credited as part of the legislative general appropri-
40 ation to the state medicaid program.

41 (e) The fund shall be administered by the department
42 of health and human resources. Moneys shall be
43 disbursed from the fund on a quarterly basis. The
44 secretary of the department shall implement the
45 provisions of this article prior to the receipt of any
46 transfer, contribution, donation or bequest from any
47 public or private source.

48 (f) All moneys expended from the fund after receipt
49 of federal financial participation shall be allocated to
50 reimbursement of inpatient charges and fees of eligible
51 disproportionate share hospitals. Except for the pay-
52 ment of administrative costs as provided for in section

53 two of this article, appropriation from this fund for any
54 other purposes is void.

55 (g) In the event that the fund does not contain a
56 balance, after receiving federal financial participation,
57 in amounts which are sufficient to reimburse each
58 hospital the maximum amount of moneys to which it
59 would otherwise be entitled, the secretary of the
60 department may cause all eligible disproportionate
61 share hospitals to be reimbursed for past services
62 rendered on a pro rata basis.

§9-4A-3. Disproportionate share hospitals.

1 (a) Unless otherwise noted, all disproportionate share
2 hospitals must meet the following criteria:

3 (1) The hospital must be licensed by the department
4 of health and human resources and participate in the
5 medicaid program; and

6 (2) The hospital must have at least two obstetricians
7 with staff privileges at the hospital who have agreed to
8 provide obstetric services to individuals entitled to such
9 services by the approved state medicaid plan. In the case
10 of a hospital located in a rural area, the term "obste-
11 trician" includes any physician with staff privileges at
12 the hospital who performs nonemergency obstetric
13 procedures. The requirements of this subsection do not
14 apply to hospitals who did not offer routine obstetrical
15 services to the general public as of the twenty-first day
16 of December, one thousand nine hundred eighty-seven.
17 Notwithstanding the provisions of this section, should
18 federal requirements outlined in this subsection change,
19 the department is to comply with federal law.

20 (b) Additionally, all disproportionate share hospitals
21 must meet one of the following criteria:

22 (1) The hospital provided in excess of three thousand
23 medicaid inpatient days of service during the most
24 recent fiscal year of the hospital; or

25 (2) For the same time period, the sum of the following
26 factors must exceed fifteen percent:

27 (i) Total medicaid inpatient days divided by total

28 inpatient days; and

29 (ii) Total medicare supplemental security insurance
30 inpatient days divided by total medicare inpatient days;
31 and

32 (iii) Total days of care provided to eligible medicaid
33 patients whose care was not paid by West Virginia
34 medicaid divided by total inpatient medicaid days.

35 (c) The dollar value of contributions, bequests or
36 donations made by any hospital to the fund shall not be
37 included as a reimbursable cost in the medicaid cost
38 report of that hospital.

§9-4A-4. Legislative reports.

1 (a) The secretary of the department of health and
2 human resources shall make an annual report to the
3 Legislature on the use of the medicaid uncompensated
4 care fund.

5 (b) The health care cost review authority shall make
6 an annual report to the Legislature on the impact of
7 improved medicaid inpatient payments resulting from
8 the fund on nongovernmental payor health care costs.

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

Thomas Leck
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Harold E. Holmes
Clerk of the Senate

Donald L. Lopp
Clerk of the House of Delegates

Keith Sundette
President of the Senate

Bob C. Orr
Speaker of the House of Delegates

The within *is approved* this the *30*
day of *April*, 1991.

Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR /

Date 3/20/91

Time 4:55 pm