WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1991

ENROLLED

Com. Sub. for
HOUSE BILL No. 2251

(By Mr. Del. P. Yancey & 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.
The Legislature finds and declares the following:

(a) Federal medicaid laws encourage special recognition of disproportionate share hospitals for medicaid reimbursement purposes.

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

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

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

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


(a) There is hereby created in the state treasury a special revolving fund known as the medicaid uncompensated care fund. All moneys deposited or accrued in this fund shall be used exclusively:

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

(2) To cover administrative cost incurred by the department of health and human services and associated with the medicaid program and this fund: Provided, That no expenditures may be made to cover said administrative costs for any fiscal year after one thousand nine hundred ninety-two, except as appropriated by the Legislature.
(b) Moneys from the following sources may be placed into the fund:

(1) All public funds transferred by any public agency to the department of health and human resources medicaid program for deposit in the fund as contemplated or permitted by applicable federal medicaid laws;

(2) All private funds contributed, donated or bequeathed by corporations, individuals or other entities to the fund as contemplated and permitted by applicable federal medicaid laws;

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

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

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

(d) Moneys received into the fund shall not be counted or credited as part of the legislative general appropriation to the state medicaid program.

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

(f) All moneys expended from the fund after receipt of federal financial participation shall be allocated to reimbursement of inpatient charges and fees of eligible disproportionate share hospitals. Except for the payment of administrative costs as provided for in section
two of this article, appropriation from this fund for any
other purposes is void.

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

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

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

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

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

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

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

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

(i) Total medicaid inpatient days divided by total
§9-4A-4. Legislative reports.

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

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

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 ............... 1991.

Governor