

RECEIVED
1991 APR -1 PM 12:03
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991



ENROLLED

Com. Sub. for
HOUSE BILL No. 2801

(By Mr. *Deles J. Martin and Michael*)



Passed March 9, 1991

In Effect June 30, 1991 ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2801
(By DELEGATES J. MARTIN AND MICHAEL)

[Passed March 9, 1991; in effect June 30, 1991.]

AN ACT to amend article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, designated sections sixteen, seventeen and eighteen, all relating to the creation of the office of consumer advocacy concerning health care and insurance costs; the powers and duties of the office and its director; and funding for the office.

Be it enacted by the Legislature of West Virginia:

That article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated sections sixteen, seventeen and eighteen, all to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-16. Office of consumer advocacy established; appointed by insurance commissioner; director of consumer advocacy; promulgation of rules and regulations.

1 There is hereby created within the agency of the
2 insurance commissioner the office of consumer advo-
3 cacy. The director of the office of consumer advocacy
4 shall be a full-time position and shall be appointed by

5 the commissioner for a term of four years and may be
6 discharged only for failure to carry out the duties of the
7 office or for other good and sufficient cause.

8 The insurance commissioner shall provide office
9 space, equipment and supplies for the office.

10 The director shall promulgate rules pursuant to
11 article three, chapter twenty-nine-a of this code in order
12 to effect the purposes of this section, section seventeen,
13 and section eighteen of this article.

14 On or before the first day of each regular session of
15 the Legislature, the director shall file with the the
16 governor, the clerk of the Senate and the clerk of the
17 House of Delegates, a report detailing the actions taken
18 by the division in the preceding calendar year.

**§33-2-17. Authority of office of consumer advocacy;
retroactive effect of authority prohibited.**

1 (a) In addition to the authority established under the
2 rules promulgated by the director, the office of con-
3 sumer advocacy is authorized to:

4 (1) Institute, intervene in, or otherwise participate in,
5 as an advocate for the public interest and the interests
6 of insurance consumers, proceedings in state and federal
7 courts, before administrative agencies, or before the
8 health care cost review authority, concerning applica-
9 tions or proceedings before the health care cost review
10 authority or the review of any act, failure to act, or order
11 of the health care cost review authority;

12 (2) At the request of one or more policyholders, or
13 whenever the public interest is served, to advocate the
14 interests of those policyholders in proceedings arising
15 out of any filing made with the insurance commissioner
16 by any insurance company or relating to any complaint
17 alleging an unfair or deceptive act or practice in the
18 business of insurance;

19 (3) Institute, intervene in, or otherwise participate in,
20 as an advocate for the public interest and the interests
21 of insurance consumers, proceedings in state and federal
22 courts, before administrative agencies, or before the

23 insurance commissioner, concerning applications or
24 proceedings before the commissioner or the review of
25 any act, failure to act, or order of the insurance
26 commissioner.

27 (4) Review and compile information, data and studies
28 of the reasonable and customary rate schedules of health
29 care providers and health insurers, for the purposes of
30 reviewing, establishing, investigating, or supporting any
31 policy regarding health care insurance rates;

32 (5) Exercise all the same rights and powers regarding
33 examination and cross-examination of witnesses, present-
34 ation of evidence, rights of appeal and other matters as
35 any party in interest appearing before the insurance
36 commissioner or the health care cost review authority;

37 (6) Hire consultants, experts, lawyers, actuaries,
38 economists, statisticians, accountants, clerks, steno-
39 graphers, support staff, assistants, and other personnel
40 necessary to carry out the provisions of this section and
41 sections sixteen and eighteen of this article, which
42 personnel shall be paid from special revenue funds
43 appropriated for the use of the office;

44 (7) Contract for the services of technically qualified
45 persons in the area of insurance matters to assist in the
46 preparation and presentation of matters before the
47 courts, the insurance commissioner, administrative
48 agencies, or the health care cost review authority, which
49 persons shall be paid from special revenue funds
50 appropriated for the use of the office;

51 (8) Make recommendations to the Legislature concern-
52 ing legislation to assist the office in the performance of
53 its duties;

54 (9) Communicate and exchange data and information
55 with other federal or state agencies, divisions, depart-
56 ments, or officers, and with other interested parties
57 including, but not limited to, health care providers,
58 insurance companies, consumers or other interested
59 parties; and

60 (10) Perform other duties to effect the purposes of the
61 office.

62 (b) The provisions of this section do not apply to any
63 filing made by an insurance company, or act or order
64 performed or issued by the commissioner, or complaint
65 filed by a policyholder with the commissioner prior to
66 the thirtieth day of June, one thousand nine hundred
67 ninety-one. All proceedings and orders in connection
68 with these prior matters shall be governed by the law
69 in effect at the time of the filing, or performance or
70 issuance of the act or order.

71 (c) The scope of authority granted under this section
72 and section sixteen of this article is restricted to matters
73 related to health care costs and health insurance
74 policies, subscriber contracts issued by organizations
75 under article twenty-four of this chapter, health care
76 corporations under article twenty-five of this chapter,
77 health maintenance organizations under article twenty-
78 five-a of this chapter, contracts supplemental to health
79 insurance policies, and other matters related to health
80 insurance issues identified by rules of the commissioner
81 promulgated under section one of this article and
82 chapter twenty-nine-a of this code.

§33-2-18. Funding.

1 The office of consumer advocacy shall be funded in an
2 amount to be appropriated by the Legislature from
3 special revenue funds.

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

Tomer Heck

Chairman Senate Committee

Ernest C. MOORE

Chairman House Committee

Originating in the House.

Takes effect June 30, 1991.

Harriet E. Adams

Clerk of the Senate

Donald L. Kopp

Clerk of the House of Delegates

Walt Suttelle

President of the Senate

B. B. C. C. C.

Speaker of the House of Delegates

The within *is approved* this the *1st*
day of *April*, 1991.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 10:15 am