WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1991

ENROLLED
Com. Sub. for
HOUSE BILL No. 3801

(By Mr. Dela. 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 insurance commissioner the office of consumer advocacy. The director of the office of consumer advocacy shall be a full-time position and shall be appointed by
the commissioner for a term of four years and may be discharged only for failure to carry out the duties of the office or for other good and sufficient cause.

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

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

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

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

(a) In addition to the authority established under the rules promulgated by the director, the office of consumer advocacy is authorized to:

(1) Institute, intervene in, or otherwise participate in, as an advocate for the public interest and the interests of insurance consumers, proceedings in state and federal courts, before administrative agencies, or before the health care cost review authority, concerning applications or proceedings before the health care cost review authority or the review of any act, failure to act, or order of the health care cost review authority;

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

(3) Institute, intervene in, or otherwise participate in, as an advocate for the public interest and the interests of insurance consumers, proceedings in state and federal courts, before administrative agencies, or before the
insurance commissioner, concerning applications or proceedings before the commissioner or the review of any act, failure to act, or order of the insurance commissioner.

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

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

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

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

(8) Make recommendations to the Legislature concerning legislation to assist the office in the performance of its duties;

(9) Communicate and exchange data and information with other federal or state agencies, divisions, departments, or officers, and with other interested parties including, but not limited to, health care providers, insurance companies, consumers or other interested parties; and

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

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

§33-2-18. Funding.

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


Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor