WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

ENROLLED
Com. Sub. For
HOUSE BILL No. 2467

(By Delegates Walter, Kiss, Atwood, Ballagh, Rutledge, Michael and Kacynski)

Passed April 9, 1993
In Effect Ninety Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2467

(By Delegates Walters, Kiss, Petersen, Gallagher, Rutledge, Michael and Facemyer)

[Passed April 8, 1993; in effect ninety days from passage.]

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five-b, relating to authorizing nonprofit corporations to provide federal insurance subsidy for children's health funds; providing definitions; powers of corporation; administration; civil penalties; voucher applications; duties and responsibilities of corporation; training sessions by the department of health and human resources; annual reports and audits; tax exempt status; and limiting personal liability of members of corporation.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 25B. FEDERAL INSURANCE SUBSIDY FOR CHILDREN'S HEALTH.

§33-25B-1. Definitions.

1 The following words, as used in this article, have the 2 meanings set forth below, unless the context clearly
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requires otherwise:

(a) "Applicant aide" means an individual licensed by
the state to care for the physical or emotional needs of
children or an employee authorized by his employer
where the employer is an institution licensed by the
state to care for the physical or emotional needs of
children and who has received an applicant aide
certificate. Individuals include, but are not limited to,
licensed teachers, child care workers, social workers,
guidance counselors, psychologists, nurses and physi-
cians. Licensed institutions include, but are not limited
to, hospitals, schools, local human services offices, child
care centers and medical clinics;

(b) "Approved providers" means any accident and
health insurer licensed by the state or any health
services organization licensed by the state or any other
entity approved by the insurance commissioner for
provision of health care coverage for children;

(c) "Corporation" means a nonprofit corporation
organized under the laws of West Virginia which has
undertaken to implement a federal insurance subsidy
for children's health insurance created by this article;
and

(d) "Insurance subsidy fund" or "fund" means a fund
or account established by the corporation for the deposit
of moneys to implement the insurance subsidy program.


The purpose of this article is to:

(a) Assist, promote, encourage, develop and advance
the knowledge of lower to moderate income families
with dependent children of the earned income credit
available for money spent on health insurance;

(b) Cooperate and act in conjunction with other
organizations, public and private, the objects of which
are the promotion and education of lower to moderate
income families with dependent children of the earned
income credit available for money spent on health
insurance;
(c) Establish a system of qualified applicant aides who shall be trained by the department of health and human services and, who, for a modest dollar incentive, will on a volunteer basis make knowledge of this program available to the targeted families; and

(d) Establish a mechanism by which to provide counseling and assistance to families and aid them in filing for the insurance voucher, selecting an appropriate health insurance policy and completing the required federal income tax return.


In order for a nonprofit corporation to participate in the program provided pursuant to this article, the nonprofit corporation must be organized and incorporated as a nonprofit corporation pursuant to the provisions of article one, section thirty-one of this code. The nonprofit corporation, in addition to all other lawful powers, shall have the power to provide counseling services to West Virginia families on the purchase of federally subsidized health insurance and to accept gifts, grants, or loans from and enter into contracts or other transactions with any federal or state agency, any municipality, any private organization or any other source as may be authorized by law.

§33-25B-4. Voucher applications; contents.

A guardian or applicant aide may file with a nonprofit corporation, organized for the purposes of this article, a sworn voucher application signed by the guardian asserting:

(a) That the guardian meets the requirements for the federal earned income credit for child health insurance for the current or next calendar year;

(b) The good-faith estimate value of the health insurance earned income credit for the year in question;

(c) That the guardian will use the voucher to purchase health insurance covering dependent children;

(d) That the guardian will prepare a federal tax return for the year in question; and
(e) That the guardian agrees to assign the value of any federal tax refund, in the amount of the voucher issued by the corporation to the corporation when filing the guardian's federal tax return.


Upon presentation of a valid voucher application, the corporation shall issue from its insurance subsidy fund a voucher to the guardian or applicant aide, made out in behalf of the guardian and redeemable for the face amount by any approved provider. The corporation shall retain in the fund all moneys received from refundable tax credits of guardians. These moneys shall be used to extend additional vouchers. The corporation may solicit and receive donations of moneys for the fund. No corporation may require that vouchers be presented to a specific approved provider in order to be eligible to participate in the program.

§33-25B-6. Duties and responsibilities of department of health and human resources to provide training and other services.

(a) The department of health and human resources shall design and provide the vouchers to any corporation wishing to participate in the program at a cost not to exceed the actual cost of the voucher.

(b) No later than ninety days after a request is made by a corporation wishing to participate in the insurance subsidy program, the department of health and human resources in cooperation with the corporations participating in the program, shall begin to conduct regional training and information sessions in all regions of the state. The purpose of these sessions is to train guardians and potential applicant aides in the necessary rules to qualify under the federal guidelines for earned income credits and the requirements of this section. These sessions shall be open to the public and potential applicant aides, at a charge not to exceed ten dollars which shall be used solely to defray the costs of conducting the training sessions. Sessions shall be available in at least the first and fourth quarter of the calendar year in all regions of the state after a request
has been made by a corporation to commence such
training sessions. The department of health and human
resources may waive the fee for guardians.

(c) Potential applicant aides shall be tested by the
department of health and human resources. Potential
applicant aides who successfully complete the test shall
be awarded a certificate entitling them to work as an
applicant aide. The department of health and human
resources shall propose legislative rules for promulga-
tion in accordance with the provisions of article three,
chapter twenty-nine-a of this code.

§33-25B-7. Allowable commission for applicant aides;
prohibited practices.

(a) Applicant aides may receive a commission not to
exceed five percent of the voucher, from an approved
provider. No commission may be paid until the fund is
fully reimbursed for the voucher. Applicant aides may
not solicit or accept any compensation from guardians
or potential guardians.

(b) An applicant aide shall be prohibited from
entering into any agreement with an approved provider,
whether such agreement is for profit or not for profit,
to recommend a specific approved provider, to the
exclusion of all other approved providers, in the course
of counseling guardians or applicants.

(c) Applicant aides who engage in deceptive practices
or who aid or encourage deception or fraud may, upon
hearing by the corporation, have their certificate as an
applicant aide revoked for a period of not less than five
years. This action shall be in addition to any other
penalties available at law.

(d) The corporation may pursue triple damages in
civil court for any losses to the fund attributable to
actions or the conduct of applicant aides or guardians.

§33-25B-8. Activities not deemed the sale of insurance;
exemptions from benefits and taxation.

(a) Assisting individuals in the preparation of appli-
cations to the fund and selection of the providers does
not constitute the sale of insurance and shall not be subject to regulation by the insurance commissioner.

(b) Insurance coverage bought by the guardian through the use of a voucher provided pursuant to the provisions of this article will be exempt from state law and regulations requiring certain mandatory state insurance coverages or benefits.

(c) Insurance coverage bought by guardians through the use of a voucher provided pursuant to the provisions of this article shall not be subject to state premium taxes.


On the first day of January of each year the corporation shall report on its operations for the preceding fiscal year to the governor and the state Legislature. The report shall include a summary of the activities of the corporation and a complete operating and financial statement. A corporation shall cause an annual audit to be made by a resident certified public accountant or a registered public accountant of its books, accounts and records, with respect to its receipts, disbursements and all other matters related to the operation of the insurance subsidy program. The person performing such audit shall also furnish copies of the audit report to the joint committee on government and finance and the legislative auditor.


Any corporation organized for the purposes of this article is exempt from all franchise, corporate, business and taxes of every nature levied by the state.

§33-25B-11. Personal liability of members or persons acting on behalf of the corporation.

No person acting on behalf of the corporation executing any contracts, commitments or agreements issued pursuant to this article may be liable personally upon the contracts, commitments or agreements or be subject to any personal liability or accountability by reason thereof.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the ______ day of May, 1993.

Governor