WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994

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ENROLLED

HOUSE BILL No. 5008

(By Delegates L. White, Douglas Brown, Compton, Rutledge, Yeager and Lead)

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Passed March 17, 1994

In Effect From Passage
AN ACT to amend article four-a, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b; to amend and reenact section two, article four-b of said chapter; and to amend and reenact sections two, three, four and five, article four-c of said chapter, all relating to the state medicaid program; relating to acceleration and expansion of medicaid coverage for children and expansion of medicaid coverage for the terminally ill; initiating the option of hospice care to terminally ill and initiating the option of medicaid coverage for all children whose family income is below one hundred percent of federal poverty level; authorizing the expansion of medicaid coverage for children whose family income is below one hundred thirty-three percent of federal poverty level within funding limits; providing for the further expansion of medicaid coverage to children whose family income is below one hundred fifty percent of the federal poverty level; requiring a report from the department of health and human resources to the governor and the Legislature regarding the feasibility of the expansion, number of children participating in the accelerated program, the average annual cost of coverage, the number of children expected to participate in the expansion program, the medical trust fund balance and the expected future deposits to said fund; requiring periodic
reports to the legislative task force on uncompensated health care and medicaid expenditures; designating funding from the medical services trust fund for the specified programs, and requiring termination of expanded coverage if the funding source is insufficient; requiring annual reports from the health care cost review authority to the governor and Legislature regarding the number of children and elderly covered by the expanded program, the cost of services by type and service provided and a cost-benefit analysis of the effect of expansion on other insurers and the reduction of uncompensated care in hospitals due to the expansion; requiring consideration of the reduction of uncompensated care and charity care in the rate review process for hospitals; requiring annual reports from the health care cost review authority to the governor and the Legislature concerning the reduction in cost shift created by the expansion of medicaid coverage; requiring a review period to study additional utilization by behavioral health centers and initiating a moratorium on the issuance of additional behavioral health licenses during the study period, providing exceptions for health care facilities with a license, approved certificate of need or application pending; providing an exception for agreements between state owned psychiatric hospitals; continuing medicaid enhancement boards; changing the composition of the general medicaid enhancement board.

Be it enacted by the Legislature of West Virginia:

That article four-a, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section two-b; that sections two, article four-b of said chapter be amended and reenacted; and that sections two, three, four and five, article four-c of said chapter be amended and reenacted, all to read as follows:

ARTICLE 4A. MEDICAID UNCOMPENSATED CARE FUND.

§9-4A-2b. Expansion of coverage to children and terminally ill.

1 (a) It is the intent of the Legislature that steps be
taken to expand coverage to children and the terminally ill and to pay for this coverage by fully utilizing federal funds. To achieve this intention, the department of health and human resources shall undertake the following:

(1) Effective the first day of July, one thousand nine hundred ninety-four, the department shall initiate a streamlined application form, which shall be no longer than two pages, for all families applying only for medicaid coverage for children.

(2) Effective the first day of July, one thousand nine hundred ninety-four, the department shall initiate the option of hospice care to terminally ill West Virginians who otherwise qualify for medicaid. On or before the first day of January, one thousand nine hundred ninety-five, and periodically thereafter, the department shall report to the legislative task force on uncompensated health care and medicaid expenditures created pursuant to section four, article twenty-nine-c, chapter sixteen of this code regarding the program initiation provided for in this subdivision. The report shall include, but not be limited to, the total number, by age, of newly eligible clients served as a result of the initiation of the program pursuant to this subdivision, the average annual cost of coverage per client, and the total cost, by provider type, to serve all clients.

(3) Effective the first day of July, one thousand nine hundred ninety-four, the department shall accelerate the medicaid option for coverage of medicaid to all West Virginia children whose family income is below one hundred percent of the federal poverty level. On or before the first day of January, one thousand nine hundred ninety-five, and periodically thereafter, the department shall report to the legislative task force on uncompensated health care and medicaid expenditures regarding the program acceleration provided for in this subdivision. The report shall include, but not be limited to, the number of newly eligible clients, by age, served as a result of the acceleration, the average annual cost of coverage per client and the total cost of all clients served by provider type.
(4) Effective the first day of July, one thousand nine hundred ninety-five, the department may initiate the medicaid option to expand coverage of medicaid to all West Virginia children whose family income is below one hundred thirty-three percent of the federal poverty level. To prepare for program expansion the department shall submit a report to the governor and the Legislature on the first day of January, one thousand nine hundred ninety-five, regarding the feasibility of the expansion. The report is to include, but not be limited to, the number of newly eligible clients participating in the programs specified in this section, the average annual cost of coverage per client, the percentage of expected participation for the expansion, the projected cost of the expansion, the medical services trust fund balance and the future disproportionate share moneys expected to be deposited in the medical services trust fund pursuant to section two-a of this article. The department shall continually update the additional information required to be provided to the governor and the Legislature regarding this expansion and periodically report the information to the legislative task force on uncompensated health care and medicaid expenditures created pursuant to section four, article twenty-nine-c, chapter sixteen of this code.

(5) Effective the first day of July, one thousand nine hundred ninety-six, the department may initiate the medicaid option to expand coverage of medicaid to all West Virginia children whose family income is below one hundred fifty percent of the federal poverty level. To prepare for program expansion, the department shall submit a report to the governor and the Legislature on the first day of January, one thousand nine hundred ninety-six, regarding the feasibility of the expansion. Additionally, the report is to include, but not be limited to, the number of clients who would be newly eligible to participate in the program, the average annual cost of coverage per client, by age, the percentage of expected participation for the expansion and the projected cost of the expansion, the balance of the medical services trust fund and the future disproportionate share moneys expected to be deposited in the
medical services trust fund pursuant to section two-a of
this article. The department shall periodically update
and report to the legislative task force on uncompens-
sated health care and medicaid expenditures created
pursuant to section four, article twenty-nine-c, chapter
sixteen of this code regarding the additional information
required to be submitted to the governor and the
Legislature.

(b) Notwithstanding the provisions of section two-a of
this article, the accruing interest in the medical services
trust fund may be utilized to pay for the programs
specified in subsection (a) of this section: Provided, That
to the extent the accrued interest is not sufficient to fully
fund the specified programs, the disproportionate share
hospital funds paid into the medical services trust fund
after the thirtieth day of June, one thousand nine
hundred ninety-four, may be applied to cover the cost
of the specified programs: Provided, however, That in
fiscal year one thousand nine hundred ninety-five, the
amount of funds applied from the disproportionate share
funds, not including accrued interest, shall not exceed
ten million dollars: Provided further, That in the interest
of fiscal responsibility, the department shall terminate
the program specified in subdivisions (4) and (5) of
subsection (a) of this section, if the future moneys
deposited from disproportionate share payments in the
medical services trust fund are insufficient to cover the
cost of the expanded program.

(c) On the first day of January, one thousand nine
hundred ninety-five and annually thereafter, the
department shall report to the governor and to the
Legislature information regarding the number of
children and elderly covered by the program, the cost
of services by type of service provided, a cost-benefit
analysis of the acceleration and expansion on other
insurers and the reduction of uncompensated care in
hospitals as a result of the programs.

(d) The health care cost review authority established
by section five, article twenty-nine-b of this chapter
shall consider in its rate review that uncompensated
care and charity care are reduced by the programs
specified in subsection (a) of this section and shall take
the reduction into account when determining rates. This
determination shall be undertaken in each hospital’s
next rate review and shall be determined prospectively.

(e) On the first day of January, one thousand nine
hundred ninety-five, and annually thereafter, the health
care cost review authority shall present to the governor
and to the Legislature a report concerning the reduction
in cost shift created by the operation of the provisions
of this article.

(f) The department shall review the additional
utilization by behavioral health centers as a result of the
acceleration and expansion for a period of eighteen
months from the enactment of this article: Provided,
That during the eighteen month study period the
department shall not issue additional behavioral health
licenses: Provided, however, That this license provision
does not apply to facilities filing for renewal applica-
tions or to any health care facility which has a certif-
icate of need in effect or an application pending on the
first day of March, one thousand nine hundred ninety-
four: Provided further, That this licensure prohibition
shall not apply to behavioral health services provided
pursuant to any agreement between state owned
psychiatric hospitals which are approved by the federal
health care finance administration.

ARTICLE 4B. PHYSICIAN/MEDICAL PRACTITIONER PROVIDER
MEDICAID ACT.

§9-4B-2. Physician/medical practitioner provider medici-
caid enhancement board; continuation and
composition.

There is hereby continued the West Virginia physi-
cian/medical practitioner provider medicaid enhance-
ment board to consist of eleven members. The board
shall consist of ten members, appointed by the governor,
and the secretary, or his or her designee, who shall serve
as an ex officio, nonvoting member. The members
appointed by the governor shall include five allopathic
physicians, one osteopathic physician, one nurse practi-
tioner, one nurse-midwife, and one physician assistant
and one lay person. The governor shall select four allopathic physician board members from a list of eight recommendations submitted to the governor by the state medical association, one allopathic physician board member from a list of three recommendations submitted to the governor by the state academy of family physicians, the osteopathic physician board member from three recommendations submitted to the governor by the state osteopathic society, the nurse practitioner from three recommendations submitted to the governor by the advanced nursing practice conference group of the West Virginia nurses association, the nurse-midwife from three recommendations submitted to the governor by the West Virginia chapter of the American college of nurse-midwives, the physician assistant from three recommendations submitted to the governor by the state physician assistant association and the lay board member, at his or her discretion. The respective associations shall submit their recommendations to the governor within five days of the effective date of this article. The governor shall make all appointments within fifteen days from the receipt of all recommendations. After the initial appointment of the board, any appointment to fill a vacancy shall be for the unexpired term only, made in the same manner as the initial appointment, and the terms of all members expire on the first day of July, one thousand nine hundred ninety-six. The board shall select a member to act as chairperson. The chairperson shall be the chief administrative officer and shall preside over official transactions of the board.

ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCEMENT ACT.

§9-4C-2. General medicaid enhancement board.

(a) The general medicaid enhancement board created by this section is hereby continued in all respects, except as otherwise provided in this section. Current members of the board who represent groups not represented on the board on and after the effective date of this article shall not serve on the board after such date. The governor shall appoint new members to the board to
represent groups not previously represented on the board within thirty days after the effective date of this article.

(b) This board shall consist of members appointed by the governor, including one representative from each of the following sixteen groups: Audiologists, behavioral health centers, chiropractors, community care centers, independent laboratory services, independent x-ray services, occupational therapists, opticians, optometrists, physical therapists, podiatrists, private duty nurses, psychologists, rehabilitative specialists, respiratory therapists and speech therapists. In addition to the members appointed by the governor, the secretary, or his or her designee, shall serve as an ex officio, nonvoting member of the board.

(c) After the initial appointment of the board, any appointment to fill a vacancy shall be for the unexpired term only and shall be made in the same manner as the initial appointment. The terms of the lay persons who are members of the board as of the seventeenth day of March, one thousand nine hundred ninety-four, shall expire on the first day of July, one thousand nine hundred ninety-four.

(d) The terms of all members expire on the first day of July, one thousand nine hundred ninety-six.

§9-4C-3. Dentist provider medicaid enhancement board.

There is hereby continued the dentist provider medicaid enhancement board to consist of five members. In order to carry out the purposes of this article, the dentist provider medicaid enhancement board shall represent dentist providers. The board shall consist of three dentists, one lay person and the secretary, or his or her designee who shall serve as an ex officio, nonvoting member. The governor shall select the dentist members from six recommendations submitted to the governor by the state dental association and the lay board member at his or her discretion. The state dental association shall submit all recommendations to the governor within five days of the effective date of this article. The governor shall make all appointments
within fifteen days of receipt of all recommendations. After the initial appointment of the board, any appointment to fill a vacancy shall be for the unexpired term only, shall be made in the same manner as the initial appointment, and the terms of all members shall expire on the first day of July, one thousand nine hundred ninety-six.

§9-4C-4. Ambulance service provider medicaid enhancement board.

There is hereby continued the ambulance service provider medicaid enhancement board to consist of seven members. In order to carry out the purpose of this article, this board shall represent ambulance service providers. The board shall consist of five ambulance service providers, one lay person and the secretary, or his or her designee as an ex officio, nonvoting member. The governor shall make all appointments within twenty days of the effective date of this article. After the initial appointment of the board, any appointment to fill a vacancy shall be for the unexpired term only, and the terms of all members shall expire on the first day of July, one thousand nine hundred ninety-six.

§9-4C-5. Facility providers’ medicaid enhancement board.

(a) The outpatient hospital medicaid enhancement board created by this section shall cease to exist on the effective date of this article.

(b) There is hereby continued the facility providers’ medicaid enhancement board to consist of seven members. In order to carry out the purpose of this article, the board shall represent ambulatory surgical centers, inpatient hospital service providers, outpatient hospital service providers, nursing facility service providers and intermediate care facility for the mentally retarded service providers.

(c) The board shall consist of one representative from each of the aforementioned classes of health care providers, one lay person and the secretary, or his or her designee, who shall serve as an ex officio, nonvoting
member. The governor shall make all appointments within thirty days after the effective date of this article.

(d) After initial appointment of the board, any appointment to fill a vacancy shall be for the unexpired term only, shall be made in the same manner as the initial appointment, and the terms of all members shall expire on the first day of July, one thousand nine hundred ninety-six.
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 is approved this the 15th day of April, 1994.

Governor