

HB 5008

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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994



ENROLLED

HOUSE BILL No. 5008

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



Passed March 17, 1994

In Effect From Passage

ENROLLED
H. B. 5008

(By DELEGATES P. WHITE, DOUGLAS, BROWN, COMPTON,
RUTLEDGE, YEAGER AND LEACH)

[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

2 taken to expand coverage to children and the terminally
3 ill and to pay for this coverage by fully utilizing federal
4 funds. To achieve this intention, the department of
5 health and human resources shall undertake the
6 following:

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

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

28 (3) Effective the first day of July, one thousand nine
29 hundred ninety-four, the department shall accelerate
30 the medicaid option for coverage of medicaid to all West
31 Virginia children whose family income is below one
32 hundred percent of the federal poverty level. On or
33 before the first day of January, one thousand nine
34 hundred ninety-five, and periodically thereafter, the
35 department shall report to the legislative task force on
36 uncompensated health care and medicaid expenditures
37 regarding the program acceleration provided for in this
38 subdivision. The report shall include, but not be limited
39 to, the number of newly eligible clients, by age, served
40 as a result of the acceleration, the average annual cost
41 of coverage per client and the total cost of all clients
42 served by provider type.

43 (4) Effective the first day of July, one thousand nine
44 hundred ninety-five, the department may initiate the
45 medicaid option to expand coverage of medicaid to all
46 West Virginia children whose family income is below
47 one hundred thirty-three percent of the federal poverty
48 level. To prepare for program expansion the department
49 shall submit a report to the governor and the Legisla-
50 ture on the first day of January, one thousand nine
51 hundred ninety-five, regarding the feasibility of the
52 expansion. The report is to include, but not be limited
53 to, the number of newly eligible clients participating in
54 the programs specified in this section, the average
55 annual cost of coverage per client, the percentage of
56 expected participation for the expansion, the projected
57 cost of the expansion, the medical services trust fund
58 balance and the future disproportionate share moneys
59 expected to be deposited in the medical services trust
60 fund pursuant to section two-a of this article. The
61 department shall continually update the additional
62 information required to be provided to the governor and
63 the Legislature regarding this expansion and periodi-
64 cally report the information to the legislative task force
65 on uncompensated health care and medicaid expendi-
66 tures created pursuant to section four, article twenty-
67 nine-c, chapter sixteen of this code.

68 (5) Effective the first day of July, one thousand nine
69 hundred ninety-six, the department may initiate the
70 medicaid option to expand coverage of medicaid to all
71 West Virginia children whose family income is below
72 one hundred fifty percent of the federal poverty level.
73 To prepare for program expansion, the department shall
74 submit a report to the governor and the Legislature on
75 the first day of January, one thousand nine hundred
76 ninety-six, regarding the feasibility of the expansion.
77 Additionally, the report is to include, but not be limited
78 to, the number of clients who would be newly eligible
79 to participate in the program, the average annual cost
80 of coverage per client, by age, the percentage of
81 expected participation for the expansion and the
82 projected cost of the expansion, the balance of the
83 medical services trust fund and the future dispropor-
84 tionate share moneys expected to be deposited in the

85 medical services trust fund pursuant to section two-a of
86 this article. The department shall periodically update
87 and report to the legislative task force on uncompen-
88 sated health care and medicaid expenditures created
89 pursuant to section four, article twenty-nine-c, chapter
90 sixteen of this code regarding the additional information
91 required to be submitted to the governor and the
92 Legislature.

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

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

122 (d) The health care cost review authority established
123 by section five, article twenty-nine-b of this chapter
124 shall consider in its rate review that uncompensated
125 care and charity care are reduced by the programs

126 specified in subsection (a) of this section and shall take
127 the reduction into account when determining rates. This
128 determination shall be undertaken in each hospital's
129 next rate review and shall be determined prospectively.

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

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

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

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

1 There is hereby continued the West Virginia physi-
2 cian/medical practitioner provider medicaid enhance-
3 ment board to consist of eleven members. The board
4 shall consist of ten members, appointed by the governor,
5 and the secretary, or his or her designee, who shall serve
6 as an ex officio, nonvoting member. The members
7 appointed by the governor shall include five allopathic
8 physicians, one osteopathic physician, one nurse practi-
9 tioner, one nurse-midwife, and one physician assistant

10 and one lay person. The governor shall select four
11 allopathic physician board members from a list of eight
12 recommendations submitted to the governor by the state
13 medical association, one allopathic physician board
14 member from a list of three recommendations submitted
15 to the governor by the state academy of family physi-
16 cians, the osteopathic physician board member from
17 three recommendations submitted to the governor by
18 the state osteopathic society, the nurse practitioner from
19 three recommendations submitted to the governor by
20 the advanced nursing practice conference group of the
21 West Virginia nurses association, the nurse-midwife
22 from three recommendations submitted to the governor
23 by the West Virginia chapter of the American college
24 of nurse-midwives, the physician assistant from three
25 recommendations submitted to the governor by the state
26 physician assistant association and the lay board
27 member, at his or her discretion. The respective
28 associations shall submit their recommendations to the
29 governor within five days of the effective date of this
30 article. The governor shall make all appointments
31 within fifteen days from the receipt of all recommenda-
32 tions. After the initial appointment of the board, any
33 appointment to fill a vacancy shall be for the unexpired
34 term only, made in the same manner as the initial
35 appointment, and the terms of all members expire on
36 the first day of July, one thousand nine hundred ninety-
37 six. The board shall select a member to act as chairper-
38 son. The chairperson shall be the chief administrative
39 officer and shall preside over official transactions of the
40 board.

**ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCE-
MENT ACT.**

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

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

8 represent groups not previously represented on the
9 board within thirty days after the effective date of this
10 article.

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

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

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

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

1 There is hereby continued the dentist provider
2 medicaid enhancement board to consist of five members.
3 In order to carry out the purposes of this article, the
4 dentist provider medicaid enhancement board shall
5 represent dentist providers. The board shall consist of
6 three dentists, one lay person and the secretary, or his
7 or her designee who shall serve as an ex officio,
8 nonvoting member. The governor shall select the dentist
9 members from six recommendations submitted to the
10 governor by the state dental association and the lay
11 board member at his or her discretion. The state dental
12 association shall submit all recommendations to the
13 governor within five days of the effective date of this
14 article. The governor shall make all appointments

15 within fifteen days of receipt of all recommendations.
16 After the initial appointment of the board, any appoint-
17 ment to fill a vacancy shall be for the unexpired term
18 only, shall be made in the same manner as the initial
19 appointment, and the terms of all members shall expire
20 on the first day of July, one thousand nine hundred
21 ninety-six.

**§9-4C-4. Ambulance service provider medicaid enhance-
ment board.**

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

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

- 1 (a) The outpatient hospital medicaid enhancement
2 board created by this section shall cease to exist on the
3 effective date of this article.
- 4 (b) There is hereby continued the facility providers'
5 medicaid enhancement board to consist of seven
6 members. In order to carry out the purpose of this
7 article, the board shall represent ambulatory surgical
8 centers, inpatient hospital service providers, outpatient
9 hospital service providers, nursing facility service
10 providers and intermediate care facility for the mentally
11 retarded service providers.
- 12 (c) The board shall consist of one representative from
13 each of the aforementioned classes of health care
14 providers, one lay person and the secretary, or his or her
15 designee, who shall serve as an ex officio, nonvoting

16 member. The governor shall make all appointments
17 within thirty days after the effective date of this article.

18 (d) After initial appointment of the board, any
19 appointment to fill a vacancy shall be for the unexpired
20 term only, shall be made in the same manner as the
21 initial appointment, and the terms of all members shall
22 expire on the first day of July, one thousand nine
23 hundred ninety-six.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within *is approved* this the *1st*
day of *April*, 1994.

[Handwritten Signature]
.....
Governor



PRESENTED TO THE

GOVERNOR

Date

3/25/94

Time

10:45 km