WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Com. Sub. for
HOUSE BILL No. H516

(By Delegate Mr. Speaker, Mr. Chambliss)
and Delegates P. White, Gallagher,
Kess, Rau, Ashcroft and Rutledge)

Passed                     March 12,               1994
In Effect                   From                    Passage

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
AN ACT to amend and reenact section nine, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section five, article three, chapter sixteen of said code; to amend and reenact section fifteen, article fifteen, chapter thirty-three of said code; to further amend said article fifteen by adding thereto a new section, designated section seventeen; to amend article sixteen of said chapter by adding thereto a new section, designated section twelve; to amend article sixteen-a of said chapter by adding thereto a new section, designated section fifteen; to amend and reenact sections three and four, article sixteen-c of said chapter; to amend article sixteen-d of said chapter by adding thereto a new section, designated section fourteen; to amend article twenty-four of said chapter by adding thereto a new section, designated section seven-d; to amend article twenty-five of said chapter by adding thereto a new section, designated section eight-c; and to amend article twenty-five-a of said chapter by adding thereto a new section, designated section eight-c, all relating to child immunization services; requiring free distribution of additional vaccines; requiring all third party payors to provide first-dollar coverage for cost of childhood
Be it enacted by the Legislature of West Virginia:

That section nine, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section five, article three, chapter sixteen of said code be amended and reenacted; that section fifteen, article fifteen of chapter thirty-three of said code be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seventeen; that article sixteen of said chapter be amended by adding thereto a new section, designated section twelve; that article sixteen-a of said chapter be amended by adding there to a new section, designated section fifteen; that sections three and four, article sixteen-c of said chapter be amended and reenacted; that article sixteen-d of said chapter be amended by adding thereto a new section, designated section fourteen; that article twenty-four of said chapter be amended by adding thereto a new section, designated section seven-d; that article twenty-five of said chapter be amended by adding thereto a new section, designated section eight-c; and that article twenty-five-a of said chapter be amended by adding thereto a new section, designated section eight-c, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.
(a) The director is hereby given exclusive authorization to execute such contract or contracts as are necessary to carry out the provisions of this article and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, group prescription drug insurance coverage and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, group prescription drug insurance and group life and accidental death insurance in this state.

(b) The group hospital or surgical insurance coverage and group major medical insurance coverage herein provided for shall include coverages and benefits for X-ray and laboratory services in connection with mammograms and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age fifty and over. Such benefits shall include, but not be limited to, the following:

(1) Baseline or other recommended mammograms for women ages thirty-five to thirty-nine, inclusive;

(2) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;

(3) A mammogram every year for women age fifty and over;

(4) A pap smear annually or more frequently based on the woman’s physician’s recommendation for women age eighteen and over; and

(5) A checkup for prostate cancer annually for men age fifty or over.

(c) The group life and accidental death insurance herein provided for shall be in the amount of ten thousand dollars for every employee. The amount of the group life and accidental death insurance to which an
employee would otherwise be entitled shall be reduced to five thousand dollars upon such employee attaining age sixty-five.

(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

(e) The provisions of article three, chapter five-a of this code, relating to the division of purchases of the department of finance and administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as herein authorized, said director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired. The director shall deal directly with insurers in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for such agent or agents may be paid by the underwriting company or companies: Provided, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award such contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering agency, corporation, insurance company or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may employ the services of impartial, professional insurance analysts or actuaries.
or both. Any contract executed by the director with a
selected carrier shall be a contract to govern all eligible
employees subject to the provisions of this article.
Nothing contained in this article shall prohibit any
insurance carrier from soliciting employees covered
hereunder to purchase additional hospital and surgical,
major medical or life and accidental death insurance
coverage.

(f) The director may authorize the carrier with whom
a primary contract is executed to reinsure portions of
such contract with other carriers which elect to be a
reinsurer and who are legally qualified to enter into a
reinsurance agreement under the laws of this state.

(g) Each employee who is covered under any such
contract or contracts shall receive a statement of
benefits to which such employee, his or her spouse and
his or her dependents are entitled thereunder, setting
forth such information as to whom such benefits shall
be payable, to whom claims shall be submitted, and a
summary of the provisions of any such contract or
contracts as they affect the employee, his or her spouse
and his or her dependents.

(h) The director may at the end of any contract period
discontinue any contract or contracts it has executed
with any carrier and replace the same with a contract
or contracts with any other carrier or carriers meeting
the requirements of this article.

(i) The director shall provide by contract or contracts
entered into under the provisions of this article the cost
for coverage of children's immunization services from
birth through age sixteen years to provide immunization
against the following illnesses: Diphtheria, polio,
mumps, measles, rubella, tetanus, hepatitis-b, haemophilius influenzae-b and whooping cough. Additional
immunizations may be required by the commissioner of
the bureau of public health for public health purposes.
Any contract entered into to cover these services shall
require that all costs associated with immunization,
including the cost of the vaccine, if incurred by the
health care provider, and all costs of vaccine adminis-

121  tration, be exempt from any deductible, per visit charge
122  and/or copayment provisions which may be in force in
123  these policies or contracts. This section does not require
124  that other health care services provided at the time of
125  immunization be exempt from any deductible and/or
126  copayment provisions.

CHAPTER 16. PUBLIC HEALTH

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE
AND OTHER INFECTIOUS DISEASES.

§16-3-5. Distribution of free vaccine preventives of
disease.

1  (a) Declaration of legislative findings and purpose. —
2  The Legislature finds and declares that early immu-
3  nization for preventable diseases represents one of the
4  most cost-effective means of disease prevention. The
5  savings which can be realized from immunization,
6  compared to the cost of health care necessary to treat
7  the illness and lost productivity, are substantial.
8  Immunization of children at an early age serves as a
9  preventative measure both in time and money and is
10  essential to maintain our children's health and well-
11  being. The costs of childhood immunizations should not
12  be allowed to preclude the benefits available from a
13  comprehensive, medically supervised child immuniza-
14  tion service. Furthermore, the federal government has
15  established goals that require ninety percent of all
16  children to be immunized by age two and provided
17  funding to allow uninsured children to meet this goal.

18  (b) The state director of health shall acquire vaccine
19  for the prevention of polio, measles, mumps, rubella,
20  diphtheria, pertussis, tetanus, hepatitis-b, haemophilus
21  influenzae-b and other vaccine preventives of disease as
22  may be deemed necessary or required by law, and shall
23  distribute the same, free of charge, in such quantities
24  as he may deem necessary, to county and municipal
25  health officers, to be used by them for the benefit of, and
26  without expense to the citizens within their respective
27  jurisdictions, to check contagions and control epidemics.

28  (c) The county and municipal health officers shall
29  have the responsibility to properly store and distribute,
free of charge, vaccines to private medical or osteopathic
physicians within their jurisdictions to be utilized to
check contagions and control epidemics: Provided, That
the private medical or osteopathic physicians shall not
make a charge for the vaccine itself when administering
it to a patient. The county and municipal health officers
shall provide a receipt to the state director of health for
any vaccine delivered as herein provided.

(d) The director of the division of health is charged
with establishing a childhood immunization advisory
committee to plan for universal access, make recommen-
dations on the distribution of vaccines acquired pursu-
ant to this section and tracking of immunization
compliance in accordance with federal and state laws.
The childhood immunization advisory committee shall
be appointed by the secretary of the department of
health and human resources no later than the first day
of July, one thousand nine hundred ninety-four, and
shall be comprised of representatives from the following
groups: Public health nursing, public health officers,
primary health care providers, pediatricians, family
practice physicians, health care administrators, state
medicaid program, the health insurance industry, the
public employees insurance agency, the self-insured
industry and consumers. The state epidemiologist shall
serve as an advisor to the committee. Members of the
advisory committee shall serve two-year terms.

(e) All health insurance policies and prepaid care
policies issued in this state which provide coverage for
the children of the insured shall provide coverage for
child immunization services to include the cost of the
vaccine, if incurred by the health care provider, and all
costs of administration from birth through age sixteen
years. These services shall be exempt from any deduct-
ible, per-visit charge and/or copayment provisions
which may be in force in these policies or contracts. This
section does not exempt other health care services
provided at the time of immunization from any deduct-
able and/or copayment provisions.

(f) Attending physicians, midwives, nurse practicion-
ers, hospitals, birthing centers, clinics and other
appropriate health care providers shall provide parents
of newborns and preschool age children with informa-
tion on the following immunizations: Diphtheria, polio,
mumps, measles, rubella, tetanus, hepatitis-b, haemoph-
ilus influenzae-b and whooping cough. This informa-
tion should include the availability of free immunization
services for children.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-15. Insurance commissioner to establish minimum
benefits and coverages for an individual
policy design; basic policy benefits; exemptions; legislative rules; premiums;
applicability.

(a) The insurance commissioner shall establish
minimum benefits which may be included in any
individual accident and sickness insurance policy issued
pursuant to this article. The commissioner may accept
bids on designs for such minimum plans and shall
compile a final basic benefit plan for use by insurers
within six months after the effective date of this article.

(b) The basic policy plan established by the insurance
commissioner may include coverage for the services of
medical physicians or surgeons, podiatrists, physician
assistants, osteopathic physicians or surgeons, chiro-
practors, midwives, advanced nurse practitioners or any
other professional health care provider as deemed
appropriate by the insurance commissioner.

(c) The following shall serve as a guide to the
commissioner in the design of a basic policy issued
pursuant to this article:

(1) Inpatient hospital care up to twenty days per year;

(2) Outpatient hospital care including, but not limited
to, surgery and anesthesia, pre-admission testing,
radiation therapy and chemotherapy;

(3) Accident or emergency care through emergency
room care and emergency admissions to a hospital;
(4) Physician office visits for primary, preventive, well, acute or sick care, up to four visits per year, and laboratory fees, surgery and anesthesia, diagnostic X rays, physician care in a hospital inpatient or outpatient setting;

(5) Prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy, and one office visit per week during the ninth month and until term. Coverage for each such visit shall include necessary appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member. Coverage for each office visit shall also include such prenatal counseling as the physician deems appropriate;

(6) Obstetrical care, including physician's services, delivery room and other medically necessary hospital services; and

(7) X-ray and laboratory services in connection with mammograms or pap smears when performed for cancer screening or diagnostic purposes, at the direction of a physician, including, but not limited to, the following:

(A) Baseline or other recommended mammograms for women age thirty-five to thirty-nine, inclusive;

(B) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;

(C) A mammogram every year for women age fifty and over; or

(D) A pap smear annually or more frequently based on the woman's physician's recommendation for women age eighteen or over. A basic policy issued pursuant to this article may apply to mammograms or pap smears the same deductibles or copayments as apply to other covered services.
(8) Medical and laboratory services in connection with annual checkups for prostate cancer in men age fifty and over.

(9) Child immunization services as described in section five, article three, chapter sixteen of this code. This coverage will cover all costs associated with immunization, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

(d) Notwithstanding any other provision of this code to the contrary, any basic policy issued pursuant to this section shall be exempt from all statutorily and regulatorily mandated benefits and coverages except for the minimum benefits and coverages as established by the commissioner pursuant to subsection (a) of this section.

(e) Nothing in this section shall preclude an insurer from offering any other benefit or coverage under a basic policy issued pursuant to this article, for an appropriate additional premium: Provided, That any additional benefit or coverage must first be approved by the insurance commissioner.

(f) A basic policy issued pursuant to this section may include deductibles, copayments and maximum benefits: Provided, That any additional benefit must first be approved by the insurance commissioner.

(g) The insurance commissioner shall promulgate legislative rules pursuant to chapter twenty-nine-a of this code to implement the provisions of this section, including, but not limited to, rules regarding bids, forms and rates.

(h) The premiums paid for insurance provided pursuant to this article shall be exempt from the
premium tax required to be paid pursuant to sections fourteen and fourteen-a, article three of this chapter.

(i) A basic policy provided by this section shall be issued only to individuals who have been without health insurance coverage for at least one year prior to application for the same.


All policies issued pursuant to this article shall cover the cost of child immunization services as described in section five, article three, chapter sixteen of this code, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-12. Child immunization services coverage.

All policies issued pursuant to this article shall cover the cost of child immunization services as described in section five, article three, chapter sixteen of this code, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

ARTICLE 16A. GROUP HEALTH INSURANCE CONVERSION.


All policies issued pursuant to this article shall cover the cost of child immunization services as described in section five, article three, chapter sixteen of this code,
including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

ARTICLE 16C. EMPLOYER GROUP ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-16C-3. Exemption from mandatory benefits and coverages; optional benefits and coverages; deductibles and copayments.

(a) Notwithstanding any other provision of this code to the contrary, any basic policy issued pursuant to this article shall be exempt from all statutorily and regulatorily mandated benefits and coverages except for the minimum benefits and coverages provided for in section four of this article.

(b) Nothing in this article shall preclude an insurer from offering any other benefit or coverage under a basic policy issued pursuant to this article, for an appropriate additional premium: Provided, That any additional benefit or coverage must first be approved by the insurance commissioner.

(c) A basic policy issued pursuant to this article may include deductibles, copayments and maximum benefits: Provided, That any additional benefit must first be approved by the insurance commissioner: Provided, however, That child immunization services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not exempt other health care services provided at the time of immunization from any deductible and/or copayment provisions.

§33-16C-4. Insurance commissioner to establish minimum benefits and coverages; basic policy benefits.
(a) The insurance commissioner shall establish minimum benefits which shall be included in every insurance policy issued pursuant to this article. The commissioner may accept bids on designs for such minimum plans and shall compile a final basic benefit plan for use by insurers within six months after the effective date of this article.

(b) The basic policy plan established by the insurance commissioner may include coverage for the services of medical physicians or surgeons, podiatrists, physician assistants, osteopathic physicians or surgeons, chiropractors, midwives, advanced nurse practitioners, or any other professional health care provider as deemed appropriate by the insurance commissioner.

(c) The following shall serve as a guide to the commissioner in the design of a basic policy issued pursuant to this article:

(1) Inpatient hospital care up to twenty days per year;
(2) Outpatient hospital care including, but not limited to, surgery and anesthesia, pre-admission testing, radiation therapy and chemotherapy;
(3) Accident or emergency care through emergency room care and emergency admissions to a hospital;
(4) Physician office visits for primary, preventive, well, acute or sick care, up to four visits per year, and laboratory fees, surgery and anesthesia, diagnostic X rays, physician care in a hospital inpatient or outpatient setting;
(5) Prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy, and one office visit per week during the ninth month and until term. Coverage for each such visit shall include necessary appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member. Coverage
for each office visit shall also include such prenatal counseling as the physician deems appropriate;

(6) Obstetrical care, including physician’s services, delivery room and other medically necessary hospital services; and

(7) X-ray and laboratory services in connection with mammograms or pap smears when performed for cancer screening or diagnostic purposes, at the direction of a physician, including, but not limited to, the following:

(A) Baseline or other recommended mammograms for women age thirty-five to thirty-nine, inclusive;

(B) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;

(C) A mammogram every year for women age fifty and over;

(D) A pap smear annually or more frequently based on the woman’s physician’s recommendation for women age eighteen or over. A basic policy issued pursuant to this article may apply to mammograms or pap smears the same deductibles or copayments as apply to other covered services.

(8) Medical and laboratory services in connection with annual checkups for prostate cancer in men age fifty and over.

(9) Child immunization services as described in section five, article three, chapter sixteen of this code. This coverage will cover all costs associated with immunization, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.
ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-16D-14. Child immunization services coverage.

1 All policies issued pursuant to this article shall cover the cost of child immunization services as described in section five, article three, chapter sixteen of this code, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7d. Required provisions in contracts which include child immunization services in the terms of the contract.

1 Each contract made by the corporation with participating hospitals, physicians, and other health agencies which provide immunizations to children shall require that bills submitted to the corporation for child immunization services rendered under the terms of their contracts will set forth separately those charges for said services. Charges for other health care services provided during the same visit shall not be included in the charge for immunization services.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8c. Third party payment for child immunization services.

1 Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, any entity regulated by this article shall, on or after the first day of July, one thousand nine hundred
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ninety-four, provide as benefits to all subscribers and members coverage for child immunization services as described in section five, article three, chapter sixteen of this code. This coverage will cover all costs associated with immunization, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies, provisions, plans, agreements or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8c. Third party payment for child immunization services.

Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, any entity regulated by this article shall, on or after the first day of July, one thousand nine hundred ninety-four, provide as benefits to all subscribers and members coverage for child immunization services as described in section five, article three, chapter sixteen of this code. This coverage will cover all costs associated with immunization, including the cost of the vaccine, if incurred by the health care provider, and all costs of vaccine administration. These services shall be exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies, provisions, plans, agreements or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible and/or copayment provisions.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

President of the Senate

Chuck Culver
Speaker of the House of Delegates

The within bill appeared this the ______ day of ______, 1994.

Governor