WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

SENATE BILL NO. 465

(By Senator ____________)

PASSED March 7, 1996
In Effect NINETY DAYS FROM PASSAGE
ENROLLED

Senate Bill No. 465

(BY SENATOR WALKER)

[Passed March 7, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article one, chapter thirty-three of said code by adding thereto a new section, designated section twenty-one; to amend article sixteen of said chapter by adding thereto a new section, designated section three-i; to amend article twenty-four of said chapter by adding thereto a new section, designated section seven-e; to amend article twenty-five of said chapter by adding thereto a new section, designated section eight-d; and to amend article twenty-five-a of said chapter by adding thereto a new section, designated section eight-d, all relating to the West Virginia public employees insurance agency and other cooperative or private third-party payors of health services; defining emergency services for purposes of coverage within policies issued for accidents and sickness; requiring emergency services coverage to be included in policies issued for groups under the West
Virginia public employees insurance agency; hospital, medical and dental corporations; health care corporations; and health maintenance organizations.

Be it enacted by the Legislature of West Virginia:

That section eight, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article one, chapter thirty-three of said code be amended by adding thereto a new section, designated section twenty-one; that article sixteen of said chapter be amended by adding thereto a new section, designated section three-i; that article twenty-four of said chapter be amended by adding thereto a new section, designated section seven-e; that article twenty-five of said chapter be amended by adding thereto a new section, designated section eight-d; and that article twenty-five-a of said chapter be amended by adding thereto a new section, designated section eight-d, 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.

§5-16-8. Conditions of insurance program.

1 The insurance plans herein provided for shall be designed by the public employees insurance agency:

3 (1) To provide a reasonable relationship between the hospital, surgical, medical and prescription drug benefits to be included and the expected reasonable and customary hospital, surgical, medical and prescription drug expenses as established by the director to be incurred by the affected employee, his or her spouse and his or her dependents. The establishment of reasonable and customary expenses by the public employees insurance agency pursuant to the preceding sentence is not subject to the state administrative procedures act in chapter twenty-nine-a of this code.
(2) To include reasonable controls which may include deductible and coinsurance provisions applicable to some or all of the benefits, and shall include other provisions, including, but not limited to, copayments, preadmission certification, case management programs and preferred provider arrangements.

(3) To prevent unnecessary utilization of the various hospital, surgical, medical and prescription drug services available.

(4) To provide reasonable assurance of stability in future years for the plans.

(5) To provide major medical insurance for said employees.

(6) To provide certain group life and accidental death insurance for the employees covered under this article.

(7) To include provisions for the coordination of benefits payable by the terms of such plans with the benefits to which such employee, or his or her spouse or his or her dependents may be entitled by the provisions of any other group hospital, surgical, medical, major medical, or prescription drug insurance or any combination thereof.

(8) To provide a cash incentive plan for employees, spouses and dependents by the thirty-first day of December, one thousand nine hundred eighty-eight, to increase utilization of, and to encourage the use of, lower cost alternative health care facilities, health care providers and generic drugs. Such plan shall be reviewed annually by the director and the advisory board.

(9) To provide “wellness” programs and activities which will include, but not be limited to, benefit plan incentives to discourage tobacco, alcohol and chemical abuse and an educational program to encourage proper diet and exercise. In establishing “wellness” programs, the division of vocational rehabilitation shall cooperate with the public employees insurance agency in establish-
ing statewide wellness programs and with such division
of vocational rehabilitation to contact county boards of
education for the use of facilities, equipment or any
service related to such purpose, at the request of the
director, under the authority hereby granted to contract
therefor. Boards of education shall be limited to charg-
ing only the cost of janitorial service and increased
utilities for the use of the gymnasium and related
equipment. The cost of the exercise program shall be
paid by county boards of education, the public employ-
ees insurance agency, or participating employees, their
spouses or dependents. All exercise programs shall be
made available to all employees, their spouses or de-
dpendents and shall not be limited to employees of county
boards of education.

(10) To provide a program, to be administered by the
director, for a patient audit plan with reimbursement up
to a maximum of one thousand dollars annually, to
employees for discovery of health care provider or
hospital overcharges when the affected employee brings
such overcharge to the attention of the plan. The hospi-
tal or health care provider shall certify to the director
that it has provided, prior to or simultaneously with the
submission of the statement of charges for payments, an
itemized statement of the charges to the employee
participant for which payment is requested of the plan.

(11) To require that all employers give written notice to
each covered employee prior to institution of any
changes in benefits to employees, and to include appro-
priate penalty for any employer not providing the
required information to any employee.

(12) To provide coverage for emergency services under
offered plans. For the purposes of this subsection,
"emergency services" means services provided in or by
a hospital emergency facility or the private office of a
dentist to evaluate and treat a medical condition mani-
festing itself by the sudden, and at the time, unexpected
onset of symptoms that require immediate medical
CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-21. Emergency services.

1 Emergency services are those services provided in or by a hospital emergency facility or the private office of a dentist to evaluate and treat a medical condition manifesting itself by the sudden, and at the time, unexpected onset of symptoms that require immediate medical attention and that failure to provide medical attention would result in serious impairment to bodily function, serious dysfunction to any bodily organ or part, or would place the person's health in jeopardy.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3i. Coverage of emergency 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 and after the first day of July, one thousand nine hundred ninety-six, provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan or agreement may apply to emergency services the same deductibles, coinsurance and other limitations as apply to other covered services: Provided, That preauthorization or precertification shall not be required.

ARTICLE 24. HOSPITAL, MEDICAL AND DENTAL CORPORATIONS.

§33-24-7e. Coverage of emergency 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 and after the first day of July, one thousand nine hundred ninety-six, provide as benefits to all subscribers and
members coverage for emergency services. A policy, provision, contract, plan or agreement may apply to emergency services the same deductibles, coinsurance and other limitations as apply to other covered services: Provided, That preauthorization or precertification shall not be required.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-Sd. Coverage of emergency 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 and after the first day of July, one thousand nine hundred ninety-six, provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan or agreement may apply to emergency services the same deductibles, coinsurance and other limitations as apply to other covered services: Provided, That preauthorization or precertification shall not be required.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8d. Coverage of emergency 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 and after the first day of July, one thousand nine hundred ninety-six, provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan or agreement may apply to emergency services the same deductibles, coinsurance and other limitations as apply to other covered services: Provided, That preauthorization or precertification shall not be required.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st day of Maui, 1996.

Governor