

SB 624

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998

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COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 624

(By Senators SCHONOWSKI & LOVE)

PASSED MARCH 14, 1998
In Effect NINETY DAYS FROM Passage

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FOR

Senate Bill No. 624

(SENATORS SCHOONOVER AND LOVE, *original sponsors*)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article one, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three, article four of said chapter, all relating to the division of human services; providing a definition of state medicaid agency; continuing and defining the purpose and composition of the advisory council for the medicaid services fund; and providing for the appointment of its members.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three, article four of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. LEGISLATIVE PURPOSE AND DEFINITIONS.

§9-1-2. Definitions.

1 The following words and terms when used in this
2 chapter have the meanings indicated unless the context
3 clearly indicates a different meaning, and any amendment
4 of this section applies to any verdict, settlement, compro-
5 mise or judgment entered after the effective date of the
6 amendments to this section enacted during the regular
7 session of the Legislature, one thousand nine hundred
8 ninety-five.

9 (a) The term "department" means the state division of
10 human services.

11 (b) The term "commissioner" means the commissioner of
12 human services.

13 (c) The term "federal-state assistance" means and
14 includes: (1) All forms of aid, care, assistance and services
15 to or on behalf of persons, which are authorized by, and
16 who are authorized to receive the same under and by
17 virtue of, subchapters one, four, five, ten, fourteen,
18 sixteen, eighteen and nineteen, chapter seven, Title 42,
19 United States Code, as those subchapters have heretofore
20 been and may hereafter be amended, supplemented and
21 revised by acts of Congress, and as those subchapters so
22 amended, supplemented and revised have heretofore been
23 and may hereafter be supplemented by valid rules and
24 regulations promulgated by authorized federal agents and
25 agencies, and as those subchapters so amended, supple-
26 mented and revised have heretofore been and may hereaf-
27 ter be supplemented by rules promulgated by the state
28 division of human services, which division rules shall be
29 consistent with federal laws, rules and regulations, but not
30 inconsistent with state law, and (2) all forms of aid, care,
31 assistance and services to persons, which are authorized
32 by, and who are authorized to receive the same under and
33 by virtue of, any act of Congress, other than the federal
34 social security act, as amended, for distribution through

35 the state division of human services to recipients of any
36 form of aid, care, assistance and services to persons
37 designated or referred to in (1) of this definition and to
38 recipients of state assistance, including by way of illustra-
39 tion, surplus food and food stamps, which Congress has
40 authorized the secretary of agriculture of the United
41 States to distribute to needy persons.

42 (d) The term "federal assistance" means and includes all
43 forms of aid, care, assistance and services to or on behalf
44 of persons, which are authorized by, and who are autho-
45 rized to receive the same under and by virtue of, any act of
46 Congress for distribution through the state division of
47 human services, the cost of which is paid entirely out of
48 federal appropriations.

49 (e) The term "state assistance" means and includes all
50 forms of aid, care, assistance, services and general relief
51 made possible solely out of state, county and private
52 appropriations to or on behalf of indigent persons, which
53 are authorized by, and who are authorized to receive the
54 same under and by virtue of, state division of human
55 services' rules.

56 (f) The term "welfare assistance" means the three classes
57 of assistance administered by the state division of human
58 services, namely: Federal-state assistance, federal assis-
59 tance and state assistance.

60 (g) The term "indigent person" means any person who is
61 domiciled in this state and who is actually in need as
62 defined by department rules and has not sufficient income
63 or other resources to provide for such need as determined
64 by the state division of human services.

65 (h) The term "domiciled in this state" means being
66 physically present in West Virginia accompanied by an
67 intention to remain in West Virginia for an indefinite
68 period of time, and to make West Virginia his or her
69 permanent home. The state division of human services

70 may by rules supplement the foregoing definition of the
71 term "domiciled in this state", but not in a manner as
72 would be inconsistent with federal laws, rules, and
73 regulations applicable to and governing federal-state
74 assistance.

75 (i) The term "medical services" means medical, surgical,
76 dental and nursing services, and other remedial services
77 recognized by law, in the home, office, hospital, clinic and
78 any other suitable place, provided or prescribed by
79 persons permitted or authorized by law to give such
80 services; the services to include drugs and medical sup-
81 plies, appliances, laboratory, diagnostic and therapeutic
82 services, nursing home and convalescent care and such
83 other medical services and supplies as may be prescribed
84 by the persons.

85 (j) The term "general relief" means cash or its equivalent
86 in services or commodities expended for care and assis-
87 tance to an indigent person other than for care in a county
88 infirmary, child shelter or similar institution.

89 (k) The term "secretary" means the secretary of the
90 department of health and human resources.

91 (l) The term "estate" means all real and personal prop-
92 erty and other assets included within the individual's
93 estate as defined in the state's probate law.

94 (m) The term "services" means nursing facility services,
95 home and community-based services, and related hospital
96 and prescription drug services for which an individual
97 received medicaid medical assistance.

98 (n) The term "state medicaid agency" means the division
99 of the department of health and human resources that is
100 the federally designated single state agency charged with
101 administration and supervision of the state medicaid
102 program.

**ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND;
ADVISORY COUNCIL; GENERAL RELIEF FUND.**

§9-4-3. Advisory council.

1 The advisory council, created by chapter one hundred
2 forty-three, acts of the Legislature, regular session, one
3 thousand nine hundred fifty-three, as an advisory body to
4 the state medicaid agency with respect to the medical
5 services fund and disbursements therefrom and to advise
6 about health and medical services, is continued so long as
7 the medical services fund remains in existence, and
8 thereafter so long as the state medicaid agency considers
9 the advisory council to be necessary or desirable, and it is
10 organized as provided by this section and applicable
11 federal law and has those advisory powers and duties as
12 are granted and imposed by this section and elsewhere by
13 law: *Provided*, That the continuation of the advisory
14 counsel is subject to a preliminary performance review
15 pursuant to the provisions of article ten, chapter four of
16 this code, evaluating the effectiveness and efficiency of the
17 advisory council, to be conducted during the interim of the
18 Legislature in the year two thousand by the joint commit-
19 tee on government operations.

20 The term of office of those members serving on the
21 advisory council, on the effective date of the amendments
22 made to this section by the Legislature during its regular
23 session in the year one thousand nine hundred ninety-
24 eight, shall continue until they are reappointed or re-
25 placed in accordance with the provisions of this section.

26 The advisory council shall consist of not less than nine
27 members, nor more than thirteen members, all but two of
28 whom shall be appointed by the state medicaid agency
29 and serve until replaced or reappointed on a rotating
30 basis. The heads of the public health and public welfare
31 agencies are members *ex officio*. The remaining members
32 comprising the council consist of a person of recognized
33 ability in the field of medicine and surgery with respect to
34 whose appointment the state medical association shall be
35 afforded the opportunity of making nomination of three

36 qualified persons, one member shall be a person of recog-
37 nized ability in the field of dentistry with respect to whose
38 appointment the state dental association shall be afforded
39 the opportunity of nominating three qualified persons,
40 and the remaining members shall be chosen from persons
41 of recognized ability in the fields of hospital administra-
42 tion, nursing and allied professions and from consumers
43 groups, including medicaid recipients, members of the
44 West Virginia directors of senior and community services,
45 labor unions, cooperatives and consumer-sponsored
46 prepaid group practices plans.

47 The council shall meet on call of the state medicaid
48 agency.

49 Each member of the advisory council shall receive
50 reimbursement for reasonable and necessary travel
51 expenses for each day actually served in attendance at
52 meetings of the council in accordance with the state's
53 travel regulations. Requisitions for the expenses shall be
54 accompanied by an itemized statement, which shall be
55 filed with the auditor and preserved as a public record.

56 The advisory council shall assist the state medicaid
57 agency in the establishment of rules, standards and
58 bylaws necessary to carry out the provisions of this section
59 and shall serve as consultants to the state medicaid agency
60 in carrying out the provisions of this section.

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

Ruby Rossore
.....
Chairman Senate Committee.

Nek Tentara
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Adams
.....
Clerk of the Senate

Bugsy A. Bay
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

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

The within *approved* this the *6th* day of *April*, 1998

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/98

Time 12:08pm