ENROLLED

Committee Substitute for

SENATE BILL NO. 624

(By Senators Schoonover and Love)

PASSED March 14, 1998
In Effect NINETY DAYS FROM PASSAGE
ENROLLED

COMMITTEE SUBSTITUTE

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 chapter have the meanings indicated unless the context clearly indicates a different meaning, and any amendment of this section applies to any verdict, settlement, compromise or judgment entered after the effective date of the amendments to this section enacted during the regular session of the Legislature, one thousand nine hundred ninety-five.

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

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

(c) The term "federal-state assistance" means and includes: (1) All forms of aid, care, assistance and services to or on behalf of persons, which are authorized by, and who are authorized to receive the same under and by virtue of, subchapters one, four, five, ten, fourteen, sixteen, eighteen and nineteen, chapter seven, Title 42, United States Code, as those subchapters have heretofore been and may hereafter be amended, supplemented and revised by acts of Congress, and as those subchapters so amended, supplemented and revised have heretofore been and may hereafter be supplemented by valid rules and regulations promulgated by authorized federal agents and agencies, and as those subchapters so amended, supplemented and revised have heretofore been and may hereafter be supplemented by rules promulgated by the state division of human services, which division rules shall be consistent with federal laws, rules and regulations, but not inconsistent with state law, and (2) all forms of aid, care, assistance and services to persons, which are authorized by, and who are authorized to receive the same under and by virtue of, any act of Congress, other than the federal social security act, as amended, for distribution through
the state division of human services to recipients of any
form of aid, care, assistance and services to persons
designated or referred to in (1) of this definition and to
recipients of state assistance, including by way of illustra-
tion, surplus food and food stamps, which Congress has
authorized the secretary of agriculture of the United
States to distribute to needy persons.

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

(e) The term “state assistance” means and includes all
forms of aid, care, assistance, services and general relief
made possible solely out of state, county and private
appropriations to or on behalf of indigent persons, which
are authorized by, and who are authorized to receive the
same under and by virtue of, state division of human
services’ rules.

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

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

(h) The term “domiciled in this state” means being
physically present in West Virginia accompanied by an
intention to remain in West Virginia for an indefinite
period of time, and to make West Virginia his or her
permanent home. The state division of human services
may by rules supplement the foregoing definition of the term "domiciled in this state", but not in a manner as would be inconsistent with federal laws, rules, and regulations applicable to and governing federal-state assistance.

(i) The term "medical services" means medical, surgical, dental and nursing services, and other remedial services recognized by law, in the home, office, hospital, clinic and any other suitable place, provided or prescribed by persons permitted or authorized by law to give such services; the services to include drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care and such other medical services and supplies as may be prescribed by the persons.

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

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

(l) The term "estate" means all real and personal property and other assets included within the individual's estate as defined in the state's probate law.

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

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

ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND; ADVISORY COUNCIL; GENERAL RELIEF FUND.
§9-4-3. Advisory council.

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

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

The advisory council shall consist of not less than nine members, nor more than thirteen members, all but two of whom shall be appointed by the state medicaid agency and serve until replaced or reappointed on a rotating basis. The heads of the public health and public welfare agencies are members ex officio. The remaining members comprising the council consist of a person of recognized ability in the field of medicine and surgery with respect to whose appointment the state medical association shall be afforded the opportunity of making nomination of three
qualified persons, one member shall be a person of recognized ability in the field of dentistry with respect to whose appointment the state dental association shall be afforded the opportunity of nominating three qualified persons, and the remaining members shall be chosen from persons of recognized ability in the fields of hospital administration, nursing and allied professions and from consumers groups, including medicaid recipients, members of the West Virginia directors of senior and community services, labor unions, cooperatives and consumer-sponsored prepaid group practices plans.

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

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

The advisory council shall assist the state medicaid agency in the establishment of rules, standards and bylaws necessary to carry out the provisions of this section and shall serve as consultants to the state medicaid agency in carrying out the provisions of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]

Chairman Senate Committee.

[Signature]

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within approve this the 6th day of April, 1998.

[Signature]

Governor
PRESENTED TO THE
GOVERNOR

Date: 3/26/48
Time: 12:08 PM