WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4579

(By Delegates Compton and Leach)

Passed March 11, 2000
In Effect Ninety Days from Passage
AN ACT to amend article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen, relating to behavioral health services; providing for summary review procedure for certain services; requiring the secretary of the department of health and human resources to direct the revision of the state mental health plan, appoint an advisory committee, and requiring reporting of the revisions; authorizing the secretary to initiate a summary review process for certain behavioral health services; requiring notice; requiring certain findings; providing the right of appeal; and providing for an expiration date for the provisions of this section.

Be it enacted by the Legislature of West Virginia:
That article five, 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 nineteen, to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-19. Summary review for certain behavioral health facilities and services.

(a) A certificate of need as provided for in article two-d, chapter sixteen of this code is not required by an entity proposing additional behavioral health care services, but only to the extent necessary to gain federal approval of the medicaid MR/DD waiver program, if a summary review is performed in accordance with the provisions of this section.

(b) Prior to initiating any summary review, the secretary shall direct the revision of the state mental health plan as required by the provisions of 42 U.S.C. 300x and section 4, article one-a, chapter twenty-seven of this code. In developing those revisions, the secretary is to appoint an advisory committee composed of representatives of the associations representing providers, child care providers, physicians and advocates. The secretary shall appoint the appropriate department employees representing regulatory agencies, reimbursement agencies and oversight agencies of the behavioral health system. The members shall submit the revisions to the secretary for final approval and the report is to be submitted to the Legislature and governor on the first day of January, two thousand one.

(c) If the secretary of the department of health and human resources determines that specific services are needed but unavailable, he or she shall provide notice of the department's intent to develop those services. Notice may be provided through publication in the state register, publication in newspapers, or a modified request for proposal as developed by the secretary.
(d) The secretary may initiate a summary review of additional behavioral health care services, but only to provide for court ordered increases in the medicaid MR/DD waiver program, by recommending exemption from the provisions of article two-d, chapter sixteen of this code to the health care authority. The recommendation is to include the following findings:

(1) That the proposed service is consistent with the state health plan and the state mental health plan;

(2) That the proposed service is consistent with the department’s programmatic and fiscal plan for behavioral health services;

(3) That the proposed service contributes to providing services that prevent admission to restrictive environments or enables an individual to remain in a non-restrictive environment;

(4) That the proposed service contributes to reducing the number of individuals admitted to inpatient or residential treatment programs or services;

(5) If applicable, that the proposed service will be community-based, locally accessible, provided in an appropriate setting consistent with the unique needs and potential of each client and his or her family, and located in an area that is unserved or underserved or does not allow consumers a choice of providers; and

(6) That the secretary is determining that sufficient funds are available for the proposed service without decreasing access to or provision of existing services. The secretary may from time to time transfer funds pursuant to the general provisions of the budget bill.
(e) The secretary’s findings required by this section shall be filed with the secretary’s recommendation and appropriate documentation. If the secretary’s findings are supported by the accompanying documentation, the proposal shall not require a certificate of need.

(f) Any entity that does not qualify for summary review shall be subject to a certificate of need review.

(g) Any provider of the proposed services denied authorization to provide those services pursuant to the summary review, has the right to appeal that decision to the state agency in accordance with the provisions of section ten, article two-d, chapter sixteen of this code.

(h) The provisions of this section shall expire on the thirtieth day of June, two thousand three.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ___________ this the ___________ day of ___________ 2000.