

SB 565

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

Committee Substitute for

SENATE BILL NO. 565

(By Senators Walker and Prezioso)



PASSED March 11, 2000

In Effect from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 565

(SENATORS WALKER AND PREZIOSO, *original sponsors*)

[Passed March 11, 2000; in effect from passage.]

AN ACT to repeal section three, article four-a, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one, two, three, four, five and six, article sixteen-b, chapter five of said code; and to amend and reenact section two-b, article four-a, chapter nine of said code, all relating to the children's health insurance program; creating the agency within the department of administration; adding certain definitions; authority to transfer personnel, equipment and funds; and expanding availability of insurance coverage to certain eligible children.

Be it enacted by the Legislature of West Virginia:

That section three, article four-a, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be repealed; that sections one, two, three, four, five and six, article sixteen-b, chapter five of said code be amended and reenacted; and that section two-b, article four-a, chapter nine be amended and reenacted, 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 16B. WEST VIRGINIA CHILDREN'S HEALTH INSURANCE
PROGRAM.**

**§5-16B-1. Expansion of health care coverage to children; cre-
ation of program; legislative directives.**

1 (a) It is the intent of the Legislature to expand access to
2 health services for eligible children and to pay for this
3 coverage by using private, state and federal funds to
4 purchase those services or purchase insurance coverage for
5 those services. To achieve this intention, the West Virginia
6 children's health insurance program is hereby created. The
7 program shall be administered by the children's health
8 insurance agency within the department of administration
9 in accordance with the provisions of this article and the
10 applicable provisions of Title XXI of the Social Security
11 Act of 1997. Participation in the program may be made
12 available to families of eligible children, subject to eligi-
13 bility criteria and processes to be established, which shall
14 not create an entitlement to coverage in any person.
15 Nothing in this article may be construed to require any
16 appropriation of state general revenue funds for the
17 payment of any benefit provided for in this article. In the
18 event that this article conflicts with the requirements of
19 federal law, federal law governs.

20 (b) In developing a children's health insurance program
21 that operates with the highest degree of simplicity and

22 governmental efficiency, the board shall avoid duplicating
23 functions available in existing agencies and may enter into
24 interagency agreements for the performance of specific
25 tasks or duties at a specific or maximum contract price.

26 (c) In developing benefit plans, the board may consider
27 any cost savings, administrative efficiency or other benefit
28 to be gained by considering existing contracts for services
29 with state health plans and negotiating modifications of
30 those contracts to meet the needs of the program.

31 (d) Upon the transfer of the functions of the children's
32 health insurance program from the department of health
33 and human resources to the children's health insurance
34 agency within the department of administration, the
35 secretary of the department of health and human resources
36 and the secretary of the department of administration,
37 acting jointly, are empowered to authorize and shall
38 authorize such transfers of program funds including, but
39 not limited to, the West Virginia children's health fund
40 created in section seven of this article and associated
41 investment accounts; and transfers of children's health
42 insurance program personnel and equipment, as are
43 necessary, to facilitate an orderly transfer of the functions
44 of the children's health insurance program. Authority to
45 make transfers pursuant to this subsection expires on the
46 thirty-first day of December, two thousand.

47 (e) In order to enroll as many eligible children as possible
48 in the program created by this article and to expedite the
49 effective date of their health insurance coverage, the board
50 shall develop and implement a plan whereby applications
51 for enrollment may be taken at any primary care center or
52 other health care provider, as determined by the director,
53 and transmitted electronically to the program's offices for
54 eligibility screening and other necessary processing. The
55 board may use any funds available to it in the development

56 and implementation of the plan, including grant funds or
57 other private or public moneys.

§5-16B-2. Definitions.

1 As used in this article, unless the context clearly requires
2 a different meaning:

3 (a) “Agency” means the children’s health insurance
4 agency within the department of administration;

5 (b) “Board” means the children’s health insurance
6 program board;

7 (c) “Director” means the director of the children’s health
8 insurance agency;

9 (d) “Essential community health service provider” means
10 a health care provider that:

11 (1) Has historically served medically needy or medically
12 indigent patients and demonstrates a commitment to serve
13 low-income and medically indigent populations which
14 constitute a significant portion of its patient population
15 or, in the case of a sole community provider, serves
16 medically indigent patients within its medical capability;
17 and

18 (2) Either waives service fees or charges fees based on a
19 sliding scale and does not restrict access or services
20 because of a client’s financial limitations, Essential
21 community health service provider includes, but is not
22 limited to, community mental health centers, school health
23 clinics, primary care centers, pediatric health clinics or
24 rural health clinics.

25 (e) “Program” means the West Virginia children’s health
26 insurance program.

§5-16B-3. Reporting requirements.

1 (a) Annually on the first day of January, the director
2 shall report to the governor and the Legislature regarding
3 the number of children enrolled in the program or pro-
4 grams; the average annual cost per child per program; the
5 estimated number of remaining uninsured children; and
6 the outreach activities for the previous year. The report
7 shall include any information that can be obtained regard-
8 ing the prior insurance and health status of the children
9 enrolled in programs created pursuant to this article. The
10 report shall include information regarding the cost, quality
11 and effectiveness of the health care delivered to enrollees
12 of this program; satisfaction surveys; and health status
13 improvement indicators. The agency, in conjunction with
14 other state health and insurance agencies, shall develop
15 indicators designed to measure the quality and effective-
16 ness of children's health programs, which information
17 shall be included in the annual report.

18 (b) On a quarterly basis, the director shall provide
19 reports to the legislative oversight commission on health
20 and human resources accountability on the number of
21 children served, including the number of newly enrolled
22 children for the reporting period and current projections
23 for future enrollees; outreach efforts and programs;
24 statistical profiles of the families served and health status
25 indicators of covered children; the average annual cost of
26 coverage per child; the total cost of children served by
27 provider type, service type and contract type; outcome
28 measures for children served; reductions in uncompensated
29 care; performance with respect to the financial plan; and
30 any other information as the legislative oversight commis-
31 sion on health and human resources accountability may
32 require.

**§5-16B-4. Children's health policy board created; qualifications
and removal of members; powers; duties; meet-
ings; and compensation.**

1 (a) There is hereby created the West Virginia children's
2 health insurance board, which shall consist of the director
3 of the public employees insurance agency, the secretary of
4 the department of health and human resources, or his or
5 her designee, and six citizen members appointed by the
6 governor, one of whom shall represent children's interests
7 and one of whom shall be a certified public accountant, to
8 assume the duties of the office immediately upon appoint-
9 ment, pending the advice and consent of the Senate. A
10 member of the Senate, as appointed by the Senate presi-
11 dent and a member of the House of Delegates, as ap-
12 pointed by the speaker of the House of Delegates, shall
13 serve as nonvoting members. Of the five citizen members
14 first appointed, one shall serve one year, two shall serve
15 two years and two shall serve three years. All subsequent
16 appointments shall be for terms of three years, except that
17 an appointment to fill a vacancy shall be for the unexpired
18 term only: *Provided*, That the citizen member to be
19 appointed upon the reenactment of this section during the
20 regular session of the Legislature, two thousand, shall
21 serve a term which corresponds to the term of the member
22 initially appointed to serve one year. Three of the citizen
23 members shall have at least a bachelor's degree and
24 experience in the administration or design of public or
25 private employee or group benefit programs and the
26 children's representative shall have experience that
27 demonstrates knowledge in the health, educational and
28 social needs of children. No more than three citizen
29 members may be members of the same political party and
30 no board member shall represent or have a pecuniary
31 interest in an entity reasonably expected to compete for
32 contracts under this article. Members of the board shall
33 assume the duties of the office immediately upon appoint-
34 ment. The director of the agency shall serve as the chair-
35 person of the board. No member may be removed from
36 office by the governor except for official misconduct,
37 incompetence, neglect of duty, neglect of fiduciary duty or

38 other specific responsibility imposed by this article or
39 gross immorality. Vacancies in the board shall be filled in
40 the same manner as the original appointment.

41 (b) The purpose of the board is to develop plans for
42 health services or health insurance that are specific to the
43 needs of children and to bring fiscal stability to this
44 program through development of an annual financial plan
45 designed in accordance with the provisions of this article.

46 (c) Notwithstanding any other provisions of this code to
47 the contrary, any insurance benefits offered as a part of
48 the programs designed by the board are exempt from the
49 minimum benefits and coverage requirements of articles
50 fifteen and sixteen, chapter thirty-three of this code.

51 (d) The board may consider adopting the maximum
52 period of continuous eligibility permitted by applicable
53 federal law, regardless of changes in a family's economic
54 status, so long as other group insurance does not become
55 available to a covered child.

56 (e) The board shall meet at the time and place as speci-
57 fied by the call of the chairperson or upon the written
58 request to the chairperson by at least two members.
59 Notice of each meeting shall be given in writing to each
60 member by the chairperson at least three days in advance
61 of the meeting. Four voting members shall constitute a
62 quorum.

63 (f) For each day or portion of a day spent in the dis-
64 charge of duties pursuant to this article, the board shall
65 pay each of its citizen members the same compensation
66 and expense reimbursement as is paid to members of the
67 Legislature for their interim duties.

**§5-16B-5. Director of the children's health insurance program;
qualifications; powers and duties.**

1 (a) An agency director shall be appointed by the gover-
2 nor, with the advice and consent of the Senate, and shall
3 be responsible for the implementation, administration and
4 management of the children's health insurance program
5 created under this article. The director shall have at least
6 a bachelor's degree and a minimum of three years' experi-
7 ence in health insurance administration.

8 (b) The director shall employ any administrative,
9 technical and clerical employees that are required for the
10 proper administration of the program and for the work of
11 the board. He or she shall present recommendations and
12 alternatives for the design of the annual plans and other
13 actions undertaken by the board in furtherance of this
14 article.

15 (c) The director is responsible for the administration and
16 management of the program and has the power and
17 authority to make all rules necessary to effectuate the
18 provisions of this article. Nothing in this article may be
19 construed as limiting the director's otherwise lawful
20 authority to manage the program on a day-to-day basis.

21 (d) The director has exclusive authority to execute any
22 contracts that are necessary to effectuate the provisions of
23 this article: *Provided*, That the board shall approve all
24 contracts for the provision of services or insurance cover-
25 age under the program. The provisions of article three,
26 chapter five-a of this code, relating to the division of
27 purchasing of the department of finance and administra-
28 tion, shall not apply to any contracts for any health
29 insurance coverage, health services, or professional
30 services authorized to be executed under the provisions of
31 this article: *Provided, however*, That before entering into
32 any contract the director shall invite competitive bids
33 from all qualified entities and shall deal directly with
34 those entities in presenting specifications and receiving
35 quotations for bid purposes. The director shall award

36 those contracts on a competitive basis taking into account
 37 the experience of the offering agency, corporation, insur-
 38 ance company or service organization. Before any pro-
 39 posal to provide benefits or coverage under the plan is
 40 selected, the offering agency, corporation, insurance
 41 company or service organization shall provide assurances
 42 of utilization of essential community health service
 43 providers to the greatest extent practicable. In evaluating
 44 these factors, the director may employ the services of
 45 independent, professional consultants. The director shall
 46 then award the contracts on a competitive basis.

47 (e) The director shall issue requests for proposals on a
 48 regional or statewide basis from essential community
 49 health service providers for defined portions of services
 50 under the children's health insurance plan and shall, to the
 51 greatest extent practicable, either contract directly with,
 52 or require participating providers to contract with,
 53 essential community health service providers to provide
 54 the services under the plan.

55 (f) Subject to the advice and consent of the board, the
 56 director may require reinsurance of primary contracts, as
 57 contemplated in the provisions of sections fifteen and
 58 fifteen-a, article four, chapter thirty-three of this code.

§5-16B-6. Financial plans requirements.

1 (a) *Benefit plan design.* – All financial plans required by
 2 this section shall establish: (1) The design of a benefit plan
 3 or plans; (2) the maximum levels of reimbursement to
 4 categories of health care providers; (3) any cost contain-
 5 ment measures for implementation during the applicable
 6 fiscal year; and (4) the types and levels of cost to families
 7 of covered children. To the extent compatible with
 8 simplicity of administration, fiscal stability and other
 9 goals of the program established in this article, the finan-

10 cial plans may provide for different levels of costs based
11 on ability to pay.

12 (b) *Actuary requirements.* – Any financial plan, or
13 modifications, approved or proposed by the board shall be
14 submitted to and reviewed by an actuary before final
15 approval. The financial plan shall be submitted to the
16 governor and the Legislature with the actuary’s written
17 professional opinion that all estimated program and
18 administrative costs of the agency under the plan, includ-
19 ing incurred but unreported claims, will not exceed ninety
20 percent of the funding available to the program for the
21 fiscal year for which the plan is proposed and that the
22 financial plan allows for no more than thirty days of
23 accounts payable to be carried over into the next fiscal
24 year. This actuarial requirement is in addition to any
25 requirement imposed by Title XXI of the Social Security
26 Act of 1997.

27 (c) *Annual plans.* –The board shall review implementa-
28 tion of its current financial plan in light of actual experi-
29 ence and shall prepare an annual financial plan for each
30 fiscal year during which the board remains in existence.
31 For each fiscal year, the governor shall provide an estimate
32 of requested appropriations and total funding available to
33 the board no later than the fifteenth day of October
34 preceding the fiscal year. The board shall afford inter-
35 ested and affected persons an opportunity to offer com-
36 ment on the plan at a public meeting of the board and, in
37 developing any proposed plan under this article, shall
38 solicit comments in writing from interested and affected
39 persons. The board shall submit its final, approved
40 financial plan, subject to the actuarial requirements of this
41 article, to the governor and to the Legislature no later than
42 the first day of January preceding the fiscal year. The
43 financial plan for a fiscal year becomes effective and shall
44 be implemented by the director on the first day of July of

45 that fiscal year. Annual plans developed pursuant to this
46 subsection are subject to the provisions of subsections (a)
47 and (b) of this section and the following guidelines:

48 (1) The aggregate actuarial value of the plan established
49 as the benchmark plan should be considered as a targeted
50 maximum or limitation in developing the benefits pack-
51 age;

52 (2) All estimated program and administrative costs,
53 including incurred but not reported claims, shall not
54 exceed ninety percent of the funding available to the
55 program for the applicable fiscal year; and

56 (3) The state's interest in achieving health care services
57 for all its children at less than two hundred percent of the
58 federal poverty guideline shall take precedence over
59 enhancing the benefits available under this program.

60 (d) The provisions of chapter twenty-nine-a of this code
61 do not apply to the preparation, approval and implementa-
62 tion of the financial plans required by this section.

63 (e) The board shall meet no less than once each quarter
64 to review implementation of its current financial plan and,
65 using actuarial data, shall make those modifications to the
66 plan that are necessary to ensure its fiscal stability and
67 effectiveness of service. The board may not increase the
68 types and levels of cost to families of covered children
69 during its quarterly review except in the event of a true
70 emergency. The board may not expand the population of
71 children to whom the program is made available except in
72 its annual plan: *Provided*, That upon the effective date of
73 this article, the board may expand coverage to any child
74 eligible under the provisions of Title XXI of the Social
75 Security Act of 1997: *Provided, however*, That the board
76 shall implement cost-sharing provisions for children who
77 may qualify for such expanded coverage and whose family
78 income exceeds one hundred fifty percent of the federal

79 poverty guideline. Such cost-sharing provisions may be
80 imposed through any one or a combination of the follow-
81 ing: enrollment fees, premiums, copayments and deduct-
82 ibles.

83 (f) The board may develop and implement programs that
84 provide for family coverage and or employer subsidies
85 within the limits authorized by the provisions of Title XXI
86 of the Social Security Act of 1997 or the federal regula-
87 tions promulgated thereunder: *Provided*, That any family
88 health insurance coverage offered by or through the
89 program shall be structured so that the board assumes no
90 financial risk: *Provided, however*, That families covered
91 by any insurance offered by or through the program shall
92 be subject to cost-sharing provisions which may include,
93 without limitation, enrollment fees, premiums,
94 copayments and or deductibles, as determined by the
95 board, which shall be based on ability to pay: *Provided*
96 *further*, That enrollment fees or premiums, if imposed, may
97 be paid, in whole or in part, through employer subsidies or
98 other private funds or public funds, subject to availability,
99 all as allowed by applicable state and federal law.

100 (g) For any fiscal year in which legislative appropria-
101 tions differ from the governor's estimate of general and
102 special revenues available to the agency, the board shall,
103 within thirty days after passage of the budget bill, make
104 any modifications to the plan necessary to ensure that the
105 total financial requirements of the agency for the current
106 fiscal year are met.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 4A. MEDICAID UNCOMPENSATED CARE FUND.

§9-4A-2b. Expansion of coverage to children and terminally ill.

1 (a) It is the intent of the Legislature that steps be taken
2 to expand coverage to children and the terminally ill and

3 to pay for this coverage by fully utilizing federal funds. To
4 achieve this intention, the department of health and
5 human resources shall undertake the following:

6 (1) The department shall provide a streamlined applica-
7 tion form, which shall be no longer than two pages, for all
8 families applying for medical coverage for children under
9 any of the programs set forth in this section; and

10 (2) The department shall provide the option of hospice
11 care to terminally ill West Virginians who otherwise
12 qualify for medicaid. The department shall provide
13 quarterly reports to the legislative oversight commission
14 on health and human resources accountability created
15 pursuant to section four, article twenty-nine-e, chapter
16 sixteen of this code regarding the program provided for in
17 this subdivision. The report shall include, but not be
18 limited to, the total number, by age, of newly eligible
19 clients served, the average annual cost of coverage per
20 client and the total cost, by provider type, to serve all
21 clients.

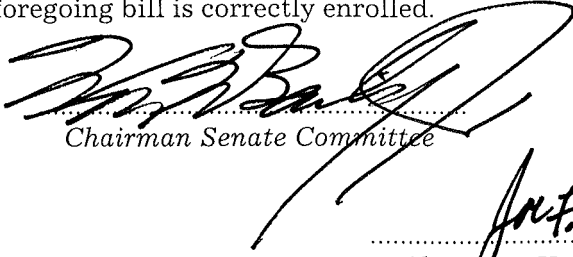
22 (3) The department shall accelerate the medicaid option
23 for coverage of medicaid to all West Virginia children
24 whose family income is below one hundred percent of the
25 federal poverty guideline. The department shall provide
26 quarterly reports to the legislative oversight commission
27 on health and human resources accountability regarding
28 the program acceleration provided for in this subdivision.
29 The report shall include, but not be limited to, the number
30 of newly eligible clients, by age, served as a result of the
31 acceleration, the average annual cost of coverage per client
32 and the total cost of all clients served by provider type.

33 (b) Notwithstanding the provisions of section two-a of
34 this article, the accruing interest in the medical services
35 trust fund may be utilized to pay for the programs speci-
36 fied in subsection (a) of this section: *Provided*, That to the

37 extent the accrued interest is not sufficient to fully fund
38 the specified programs, the disproportionate share hospital
39 funds paid into the medical services trust fund after the
40 thirtieth day of June, one thousand nine hundred
41 ninety-four, may be applied to cover the cost of the
42 specified programs.

43 (c) Annually on the first day of January, the department
44 shall report to the governor and to the Legislature infor-
45 mation regarding the number of children and elderly
46 covered by the programs in subdivisions (2) and (3) of
47 subsection (a), the cost of services by type of service
48 provided, a cost-benefit analysis of the acceleration and
49 expansion on other insurers and the reduction of uncom-
50 pensated care in hospitals as a result of the programs.

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



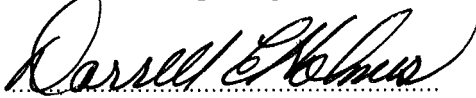
Chairman Senate Committee



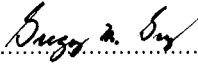
Chairman House Committee

Originated in the Senate.


In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

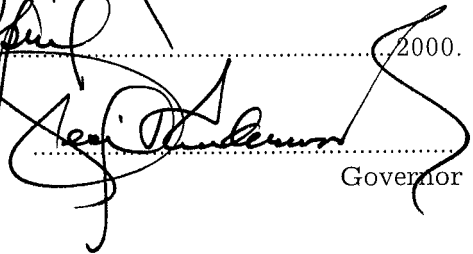


President of the Senate



Speaker House of Delegates

The within approved this the 17th
Day of April 2000.



Governor

PRESENTED TO THE

GOVERNOR

Date 5/23/00

Time 4:00 pm