WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 513

(By Senator Minard)

PASSED April 14, 2001

In Effect 90 days from Passage
AN ACT to amend and reenact section four, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-four, article twenty-five-a of said chapter, all relating to permitting health maintenance organizations and hospital, medical and dental service corporations to borrow money for surplus funds and other operating expenses.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.
§33-24-4. Exemptions; applicability of insurance laws.

Every corporation defined in section two of this article is hereby declared to be a scientific, nonprofit institution and exempt from the payment of all property and other taxes. Every corporation, to the same extent the provisions are applicable to insurers transacting similar kinds of insurance and not inconsistent with the provisions of this article, shall be governed by and be subject to the provisions as hereinbelow indicated, of the following articles of this chapter: Article two (insurance commissioner), except that, under section nine of said article, examinations shall be conducted at least once every four years; article four (general provisions), except that section sixteen of said article shall not be applicable thereto; section twenty, article five (borrowing by insurers); section thirty-four, article six (fee for form and rate filing); article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eleven (unfair trade practices); article twelve (agents, brokers and solicitors), except that the agent's license fee shall be twenty-five dollars; section two-a, article fifteen (definitions); section two-b, article fifteen (guaranteed issue); section two-d, article fifteen (exception to guaranteed renewability); section two-e, article fifteen (discontinuation of coverage); section two-f, article fifteen (certification of creditable coverage); section two-g, article fifteen (applicability); section four-e, article fifteen (benefits for mothers and newborns); section fourteen, article fifteen (individual accident and sickness insurance); section sixteen, article fifteen (coverage of children); section eighteen, article fifteen (equal treatment of state agency); section nineteen, article fifteen (coordination of benefits with medicaid); article fifteen-a (long-term care insurance); article fifteen-c (diabetes insurance); section three, article sixteen (required policy provisions); section three-a, article sixteen (mental health); section three-c, article sixteen (group accident and sickness insurance); section three-d, article sixteen (medicare supplement insurance); section three-f, article sixteen
(treatment of temporomandibular joint disorder and
craniofacial mandibular disorder); section three-j, article sixteen
(benefits for mothers and newborns); section three-k,
article sixteen (preexisting condition exclusions); section
three-l, article sixteen (guaranteed renewability); section
three-m, article sixteen (creditable coverage); section
three-n, article sixteen (eligibility for enrollment); section
eleven, article sixteen (coverage of children); section
thirteen, article sixteen (equal treatment of state agency);
section fourteen, article sixteen (coordination of benefits
with medicaid); section sixteen, article sixteen (diabetes
insurance); article sixteen-a (group health insurance
conversion); article sixteen-c (small employer group
policies); article sixteen-d (marketing and rate practices
for small employers); article twenty-six-a (West Virginia
life and health insurance guaranty association act), after
the first day of October, one thousand nine hundred
ninety-one; article twenty-seven (insurance holding
company systems); article twenty-eight (individual
accident and sickness insurance minimum standards);
article thirty-three (annual audited financial report);
article thirty-four (administrative supervision); article
thirty-four-a (standards and commissioner's authority for
companies considered to be in hazardous financial condi-
tion); article thirty-five (criminal sanctions for failure to
report impairment); article thirty-seven (managing general
agents); and article forty-one (privileges and immunity);
and no other provision of this chapter may apply to these
corporations unless specifically made applicable by the
provisions of this article. If, however, the corporation is
converted into a corporation organized for a pecuniary
profit or if it transacts business without having obtained
a license as required by section five of this article, it shall
thereupon forfeit its right to these exemptions.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-24. Statutory construction and relationship to other
laws.
(a) Except as otherwise provided in this article, provisions of the insurance laws and provisions of hospital or medical service corporation laws are not applicable to any health maintenance organization granted a certificate of authority under this article. The provisions of this article shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this state except with respect to its health maintenance corporation activities authorized and regulated pursuant to this article. The provisions of this article shall not apply to an entity properly licensed by a reciprocal state to provide health care services to employer groups, where residents of West Virginia are members of an employer group and the employer group contract is entered into in the reciprocal state. For purposes of this subsection, a "reciprocal state" means a state which physically borders West Virginia and which has subscriber or enrollee hold harmless requirements substantially similar to those set out in section seven-a of this article.

(b) Factually accurate advertising or solicitation regarding the range of services provided, the premiums and copayments charged, the sites of services and hours of operation and any other quantifiable, nonprofessional aspects of its operation by a health maintenance organization granted a certificate of authority, or its representative relating to solicitation or advertising by health professions: Provided, That nothing contained in this subsection shall be construed as authorizing any solicitation or advertising which identifies or refers to any individual provider or makes any qualitative judgment concerning any provider.

(c) Any health maintenance organization authorized under this article shall not be considered to be practicing medicine and is exempt from the provisions of chapter thirty of this code, relating to the practice of medicine.
(d) The provisions of sections fifteen and twenty, article four (general provisions); section seventeen, article six (noncomplying forms); section twenty, article five (borrowing by insurers), article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eight (investments); article nine (administration of deposits); article twelve (agents, brokers, solicitors and excess line); section fourteen, article fifteen (individual accident and sickness insurance); section sixteen, article fifteen (coverage of children); section eighteen, article fifteen (equal treatment of state agency); section nineteen, article fifteen (coordination of benefits with medicaid); article fifteen-b (uniform health care administration act); section three, article sixteen (required policy provisions); section three-f, article sixteen (treatment of temporomandibular disorder and craniomandibular disorder); section eleven, article sixteen (coverage of children); section thirteen, article sixteen (equal treatment of state agency); section fourteen, article sixteen (coordination of benefits with medicaid); article sixteen-a (group health insurance conversion); article sixteen-d (marketing and rate practices for small employers); article twenty-five-c (health maintenance organization patient bill of rights); article twenty-seven (insurance holding company systems); article thirty-four-a (standards and commissioner’s authority for companies considered to be in hazardous financial condition); article thirty-five (criminal sanctions for failure to report impairment); article thirty-seven (managing general agents); article thirty-nine (disclosure of material transactions); article forty-one (privileges and immunity); and article forty-two (women’s access to health care) shall be applicable to any health maintenance organization granted a certificate of authority under this article. In circumstances where the code provisions made applicable to health maintenance organizations by this section refer to the “insurer”, the “corporation” or words of similar import, the language shall be construed to include health maintenance organizations.
(e) Any long-term care insurance policy delivered or issued for delivery in this state by a health maintenance organization shall comply with the provisions of article fifteen-a of this chapter.

(f) A health maintenance organization granted a certificate of authority under this article shall be exempt from paying municipal business and occupation taxes on gross income it receives from its enrollees, or from their employers or others on their behalf, for health care items or services provided directly or indirectly by the health maintenance organization. This exemption applies to all taxable years through the thirty-first day of December, one thousand nine hundred ninety-six. The commissioner and the tax department shall conduct a study of the appropriations of imposition of the municipal business and occupation tax or other tax on health maintenance organizations, and shall report to the regular session of the Legislature, one thousand nine hundred ninety-seven, on their findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate their recommendations.
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 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 and this the ... Day of ... May ..., 2001.

Governor