WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 608

(By Senator Prezioso)

PASSED March 8, 2003

In Effect 90 days from Passage
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Senate Bill No. 608

(By Senator Prezioso)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section nineteen, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing the continuance of summary certificate of need reviews for proposed behavioral health services necessary to maintain federal approval of the medicaid mentally retarded/developmentally disabled waiver program.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

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

1 (a) A certificate of need as provided 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
four, 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.

(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 the
extent necessary to gain federal approval of 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 nonrestrictive 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 does not require a certificate of need.

(f) Any entity that does not qualify for summary review is 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.
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...this the... of...March...2003.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/20/03
Time 9:30AM