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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4205**

(By Delegates Mahan, R. Thompson, Cann,
Kominar, Armstead and Faircloth)

Passed March 13, 2004

In Effect from Passage

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FOR

H. B. 4205

(BY DELEGATES MAHAN, R. THOMPSON, CANN,
KOMINAR, ARMSTEAD AND FAIRCLOTH)

[Passed March 13, 2004; in effect from passage.]

AN ACT to amend and reenact article 5, chapter 64 of the code of West Virginia, 1931, as amended; all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recom-

mended by the legislative rule-making review committee and as amended by the legislature; authorizing the department of health and human resources to promulgate a legislative rule relating to eligibility standards for economic assistance from the James “Tiger” Morton catastrophic illness fund; authorizing the division of health to promulgate a legislative rule relating to assisted living residences; authorizing the division of health to promulgate a legislative rule relating to cross connection and backflow prevention; authorizing the division of health to promulgate a legislative rule relating to the certification of backflow prevention assembly testers; authorizing the division of health to promulgate a legislative rule relating to the state-wide trauma/emergency care system; authorizing the division of health to promulgate a legislative rule relating to public water systems; authorizing the division of health to promulgate a legislative rule relating to childhood lead screening; authorizing the division of health to promulgate a legislative rule relating to fees for services; authorizing the division of health to promulgate a legislative rule relating to residential board and care homes; and authorizing the division of health to promulgate a legislative rule relating to the birth defects information system.

Be it enacted by the Legislature of West Virginia:

That article 5, chapter 64 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Department of health and human resources.

1 The legislative rule filed in the state register on the eighth
2 day of July, two thousand three, authorized under the authority
3 of section two, article five-q, chapter sixteen of this code,
4 modified by the department of health and human resources to

5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the second day of
7 December, two thousand three, relating to the department of
8 health and human resources (eligibility standards for economic
9 assistance from the James “Tiger” Morton catastrophic illness
10 fund, 72 CSR 1), is authorized, with the following amendments:

11 On page one, section 2, lines one and two, by striking out
12 the words “has a catastrophic illness and has applied” and
13 inserting in lieu there of the word “applies”;

14 On page one, subsection 2.1, line three, by striking out the
15 word “that” and inserting in lieu thereof the word “cata-
16 strophic”;

17 On page two, subsection 3.4, after the words “A life-
18 threatening illness” by striking out the remainder of the
19 subsection and inserting in lieu thereof the words “presenting
20 an applicant with an imminent risk of death.”;

21 On page two, subsection 3.6, by striking out the subsection
22 in its entirety and inserting in lieu thereof the following:

23 “3.6. Eligible applicant. - An applicant who is suffering
24 from a catastrophic illness and who meets the financial eligibil-
25 ity standards established by subsection 6.3 of this rule.”;

26 On page two, section 4, by striking out the section in its
27 entirety and inserting in lieu thereof the following:

28 “4.1. A West Virginia citizen may request economic
29 assistance from the commission by contacting the commission
30 and providing information by telephone.

31 4.2. Any person who obtains or attempts to obtain funds
32 from the commission by willful, false statement or misrepresen-
33 tation or by impersonation or any other fraudulent device may

34 be investigated by the Department of Health and Human
35 Resources, Office of Inspector General, and may be prosecuted
36 to the full extent of the law.”;

37 On page four, section 5, by striking out the section in its
38 entirety and renumbering subsequent sections accordingly;

39 On page two, section 6, by striking out the words “If
40 funding is available, the Commission may consider an applicant
41 eligible” and inserting in lieu thereof the words “An applicant
42 is eligible”;

43 On page three, subsection 8.1, by striking out the subsection
44 in its entirety and inserting in lieu thereof the following:

45 “8.1. Requests for pharmaceutical purchases other than
46 those approved under section 7 of this rule.”;

47 On page three, subsection 8.3, line one, after the word
48 “days”, by inserting the words “or more”;

49 On page four, subsection 9.1, by striking out the subsection
50 in its entirety and inserting in lieu thereof the following:

51 “9.1 If funding is available, the commissioner may order an
52 award of economic assistance to an eligible applicant.”;

53 On page four, subsection 9.2, line two, after the words
54 “amount of an award.” by striking out the remainder of the
55 subsection and inserting in lieu thereof the following:

56 “The decision to make an award is within the discretion of
57 the commission or, where permitted by this rule, its executive
58 director.”;

59 On page four, subsection 9.3, by striking out the subsection
60 in its entirety and inserting in lieu thereof the following:

61 “9.3. Within each budget year, similarly situated applicants
62 shall be treated similarly.”;

63 On page four, section 10, by striking out the section in its
64 entirety and inserting in lieu thereof the following:

65 “Records of the Commission are confidential and may not
66 be disclosed except as required by W. Va. Code §29B-1-1 *et*
67 *seq.* Any employee of the commission who has access to
68 confidential information regarding an applicant must sign a
69 written statement acknowledging that he or she fully under-
70 stands and will maintain the confidential nature of the informa-
71 tion.”;

72 And,

73 On page five, section 11, line eight, after the word “conclu-
74 sion.”, by striking out the quotation marks.

§64-5-2. Division of health.

1 (a) The legislative rule filed in the state register on the
2 twenty-fourth day of July, two thousand three, authorized under
3 the authority of section five, article five-d, chapter sixteen of
4 this code, modified by the division of health to meet the
5 objections of the legislative rule-making review committee and
6 refiled in the state register on the eighth day of December, two
7 thousand three, relating to the division of health (assisted living
8 residences, 64 CSR 14), is authorized.

9 (b) The legislative rule filed in the state register on the
10 twenty-second day of July, two thousand three, authorized
11 under the authority of section four, article one, chapter sixteen
12 of this code, modified by the division of health to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the twenty-second day of Decem-

15 ber, two thousand three, relating to the division of health (cross
16 connection and backflow prevention, 64 CSR 15), is authorized.

17 (c) The legislative rule filed in the state register on the
18 twenty-second day of July, two thousand three, authorized
19 under the authority of section four, article one, chapter sixteen
20 of this code, modified by the division of health to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the twenty-second day of Decem-
23 ber, two thousand three, relating to the division of health
24 (certification of backflow prevention assembly testers, 64 CSR
25 25), is authorized with the following amendment:

26 “On page two, section four, following subdivision 4.1.b., by
27 striking the remainder of the subsection and inserting the
28 following:

29 ‘and

30 4.1.c. Either:

31 4.1.c.1. Complete and pass all parts of an approved
32 forty (40) hour course of instruction in theory, design, perfor-
33 mance, testing and maintenance of backflow prevention
34 assemblies; or

35 4.1.c.2. Meet recertification, reinstatement or reciproc-
36 ity requirements, as provided in sections 7 or 8 of this rule.’.”

37 (d) The legislative rule filed in the state register on the
38 thirty-first day of July, two thousand three, authorized under the
39 authority of section nine-c, article seven-b, chapter fifty-five of
40 this code, modified by the division of health to meet the
41 objections of the legislative rule-making review committee and
42 refiled in the state register on the eighth day of December, two
43 thousand three, relating to the division of health (statewide
44 trauma/emergency care system, 64 CSR 27), is authorized.

45 (e) The legislative rule filed in the state register on the
46 eleventh day of July, two thousand three, authorized under the
47 authority of section four, article one, chapter sixteen of this
48 code, relating to the division of health (public water systems, 64
49 CSR 3), is authorized.

50 (f) The legislative rule filed in the state register on the
51 twenty-eighth day of July, two thousand three, authorized under
52 the authority of section four-a, article thirty-five, chapter
53 sixteen of this code, modified by the division of health to meet
54 the objections of the legislative rule-making review committee
55 and refiled in the state register on the eighth day of December,
56 two thousand three, relating to the division of health (childhood
57 lead screening, 64 CSR 42), is authorized with the following
58 amendments:

59 “On page two, subsection 3.6, line one, following the word
60 “Screening” and the dash, by striking out the remainder of the
61 sentence and inserting in lieu thereof the following: “The
62 assessment of a child’s environment and social conditions to
63 determine risk for lead poisoning.”;

64 On page two, subsection 4.1, line two, following the words
65 “years for” by inserting the words “risk of”;

66 On page two, subdivision 4.1.a, line one, following the
67 word “screened”, by inserting the words “using a risk assess-
68 ment”;

69 On page two, subdivision 4.1.a, line two, following the
70 word “age”, by striking out the words “shall be screened”;

71 On page two, subdivision 4.1.b, line one, following the
72 word “lead”, by inserting the words “risk assessment”;

73 On page two, subdivision 4.1.b, line three, following the
74 word “conducted”, by striking out the comma and inserting the
75 word “and”;

76 On page two, subdivision 4.1.b, line three, following the
77 word “name”, by striking out the remainder of the sentence.

78 On page two, section four, following subdivision 4.1.b, by
79 inserting the following:

80 “4.1.c. If a child is determined to be at risk for lead poison-
81 ing, the health care provider shall perform or authorize a blood
82 test to identify the blood lead level.”

83 On page three, section six, line two, following the word
84 “quarterly”, by inserting the word “testing”;

85 On page three, section six, line two, following the word
86 “results”, by striking out the words “of the screening”;

87 And

88 On page three, subsection 7.2, line two, following the word
89 “child’s”, by inserting the word “name” and a comma.”

90 (g) The legislative rule filed in the state register on the first
91 day of August, two thousand three, authorized under the
92 authority of section four, article one, chapter sixteen of this
93 code, modified by the division of health to meet the objections
94 of the legislative rule-making review committee and refiled in
95 the state register on the eighth day of December, two thousand
96 three, relating to the division of health (fees for services, 64
97 CSR 51), is authorized, with the following amendments:

98 On page one, subsection 3.2 after the words “Ambulatory
99 Surgical” by striking out the words “Center (ASC)” and
100 inserting in lieu thereof the words “Facility (ASF)”;

101 On page twenty-one, Appendix A. Laboratory Service
 102 Fees., subparagraph 1.A.1.8.1, after the words “Active Sub-
 103 stances”, by striking out the numbers “\$12.00” and inserting in
 104 lieu thereof the numbers “\$15.00”;

105 On page twenty-one, Appendix A. Laboratory Service
 106 Fees., after subparagraph 1.A.1.8.1., by inserting a new subpara-
 107 graph, designated subparagraph 1.A.1.8.1. and renumbering the
 108 remaining subsections, to read as follows:

109 “m. Nitrate \$15.00”;

110 On page twenty-one, Appendix A. Laboratory Service
 111 Fees., subsection 1.B., by renumbering the subdivisions in the
 112 subsection;

113 On page twenty-two, Appendix A. Laboratory Service
 114 Fees., after subparagraph 1.B.3.A.3. by adding a new subpara-
 115 graph, designated subparagraph 1.B.3.A.4., to read as follows:

116 “3. All Other Organic Tests \$800.00

117 4. Total Organic Carbon (TOC) and/or Specific Ultraviolet
 118 Absorption (SUVA) \$200.00”

119 and by renumbering the subsequent subparagraphs accord-
 120 ingly;

121 On page twenty-two, Appendix A. Laboratory Service
 122 Fees., paragraph 1.B.4.A., after the words “Newborn Screen-
 123 ing”, by striking out the numbers “\$15.00” and inserting in lieu
 124 thereof the numbers “\$28.00”;

125 On page twenty-seven, Appendix C. Maximum Health
 126 Facility Fees., subsection 2.B., after the words “Ambulatory
 127 Surgical”, by striking out the word “Center” and inserting in
 128 lieu thereof the word “Facility”;

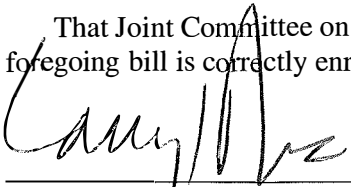
129 And,

130 On page twenty-eight, Appendix C. Maximum Health
131 Facility Fees., subsection 3.B., after the words “Ambulatory
132 Surgical”, by striking out the word “Center” and inserting in
133 lieu thereof the word “Facility”.

134 (h) The legislative rule filed in the state register on the
135 twenty-fifth day of July, two thousand three, authorized under
136 the authority of section five, article five-d, chapter sixteen of
137 this code, relating to the division of health (residential board
138 and care homes, 64 CSR 65), is authorized.

139 (i) The legislative rule filed in the state register on the
140 twenty-fifth day of July, two thousand three, authorized under
141 the authority of section seven, article forty, chapter sixteen of
142 this code, modified by the division of health to meet the
143 objections of the legislative rule-making review committee and
144 refiled in the state register on the eighth day of December, two
145 thousand three, relating to the division of health (birth defects
146 information system, 64 CSR 81), is authorized.

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.

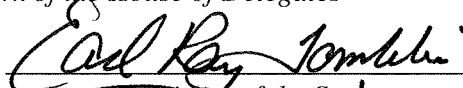
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates




President of the Senate



Speaker of the House of Delegates

The within is approved this the 5th
day of April, 2004.



Governor

PRESENTED TO THE

GOVERNOR

DATE 4.1.04

TIME 4:35 pm