ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 3336

(By Delegate Perdue)

Passed April 11, 2009

In Effect Ninety Days from Passage
AN ACT to amend and reenact §16-5K-2 and §16-5K-6 of the Code of West Virginia, 1931, as amended, relating to authorizing the Bureau for Public Health to continue providing early intervention services to families with developmentally delayed infants and toddlers; authorizes the ability to charge fees on a sliding scale and to bill third party payers; and established that any fees or payments by third party payers will go into the Birth-to-Three Fund.

Be it enacted by the Legislature of West Virginia:

That §16-5K-2 and §16-5K-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN WITH DEVELOPMENTAL DELAYS.

Unless the context clearly otherwise indicates, as used in this article:

(a) "Bureau" means the Bureau for Children and Families Public Health within the Department of Health and Human Resources.

(b) "Council" means the Governor's Early Intervention Interagency Coordinating Council.

(c) "Department" means the Department of Health and Human Resources.

(d) "Early intervention services" means developmental services which:

(1) Are designed to meet the developmental needs of developmentally delayed infants and toddlers and the needs of the family related to enhancing the child's development;

(2) Are selected in collaboration with the parents;

(3) Are provided under public supervision in conformity with an individualized family service plan;

(4) Are provided either at no charge, fees based on a sliding scale, or charges to third party payers and do not restrict access or services because of a client's financial limitations;

(5) Meet the state's early intervention standards, as established by the Department of Health and Human Resources with the assistance of the Governor's Early Intervention Interagency Coordinating Council;
(6) Include assistive technology, audiology, audiology case management, family training, counseling and home visits, health services necessary to enable a child to benefit from other early intervention services, medical services only for diagnostic or evaluation purposes, nursing services, nutrition services, occupational therapy, physical therapy, psychological services, social work services, special instruction, speech-language pathology, vision and transportation; and

(7) Are provided by licensed or otherwise qualified personnel, includingaudiologists, family therapists, nurses, nutritionists, occupational therapists, orientation and mobility specialists, physical therapists, physicians, psychologists, social workers, special educators, speech-language pathologists and paraprofessionals appropriately trained and supervised.

(e) "Infants and toddlers with developmental delay" means children from birth to thirty-six months of age who need early intervention services for any of the following reasons:

(1) They are experiencing developmental delays, as measured by appropriate methods and procedures, in one or more of the following areas: Cognitive, physical, including visual and hearing, communicative, adaptive, social, language and speech, or psycho-social development or self-help skills; or

(2) They have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; or

(3) They are at risk of having substantial developmental delays if early intervention services are not provided.

(a) There is hereby created in the state treasury a fund to be known as the “West Virginia Birth-to-Three Fund” that shall be an interest-bearing account established and maintained to pay costs, fees and expenses incurred, or to be incurred, for early intervention services for children who are developmentally delayed.

(b) Funds deposited into this account shall be derived from the following sources:

(1) Any appropriations by the Legislature;

(2) Fund transfers from any fund of the divisions of the department of health and human resources that, in whole or in part, supports early intervention services;

(3) All public funds transferred by any public agency as permitted by applicable law;

(4) Any private funds contributed, donated or bequeathed by corporations, individuals or other entities; and

(5) All proceeds from fees paid by the client or third party payers; and

(6) All interest or return on investments accruing to the fund.

(c) Moneys deposited in this fund shall be used exclusively to provide early intervention services to accomplish the purposes of this article. Expenditures of moneys deposited in this fund are to be made in accordance with appropriation by the Legislature and in accordance with article three, chapter twelve of this code and upon the
fulfillment of the provisions of article two, chapter five-a of
this code: Provided, That for the fiscal year ending the
thirtieth day of June, two thousand three, expenditures are
authorized from deposits rather than pursuant to
appropriation by the Legislature.

(d) Any balance remaining in this fund at the end of any
state fiscal year shall not revert to the state treasury but shall
remain in this fund and shall be used only in a manner
consistent with this article.
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 is approved this the 6th

day of January, 2009.

Governor
PRESENTED TO THE GOVERNOR

MAY 4 2009

Time 10:00 AM