

SB 408

FILED

2009 MAY -8 PM 3:41

**WEST VIRGINIA LEGISLATURE** OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2009**

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**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 408**

(SENATORS MINARD, JENKINS, STOLLINGS  
AND KESSLER, *original sponsor*)

[Passed April 9, 2009; in effect ninety days from passage.]

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AN ACT to repeal §33-48-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §33-48-7b; and to amend and reenact §33-48-8 of said code, all relating to the model health plan for uninsurable individuals; removing obsolete sunset provision; authorizing the use of surplus funds in the plan fund to subsidize premiums of certain enrollees; and permitting the board to propose legislative rules to propose additional classes of individuals to which the preexisting condition exclusion may not apply.

*Be it enacted by the Legislature of West Virginia:*

That §33-48-11 of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding thereto a new section, designated §33-48-7b; and that §33-48-8 of said code be amended and reenacted, all to read as follows:

**ARTICLE 48. MODEL HEALTH PLAN FOR UNINSURABLE INDIVIDUALS  
ACT.**

**§33-48-7b. Surplus available to subsidize premiums.**

1 Whenever the board determines that the account created  
2 pursuant to section seven-a of this article contains a  
3 surplus above those amounts necessary to provide fully for  
4 the expected costs of claims and other expenses listed in  
5 subsection (a), section seven of this article, the plan may  
6 use such surpluses to subsidize the premium of certain low  
7 income enrollees whose eligibility shall be established by  
8 legislative rule. The board shall propose rules for legisla-  
9 tive approval in accordance with the provisions of article  
10 three, chapter twenty-nine-a of this code to establish  
11 criteria for enrollees with low income eligible for premium  
12 subsidy pursuant to this section.

**§33-48-8. Benefits.**

1 (a) The plan shall offer health care coverage consistent  
2 with comprehensive coverage to every eligible person who  
3 is not eligible for medicare. The coverage to be issued by  
4 the plan, its schedule of benefits, exclusions and other  
5 limitations shall be established by the board and subject  
6 to the approval of the commissioner.

7 (b) In establishing the plan coverage, the board shall  
8 take into consideration the levels of health insurance  
9 coverage provided in the state and medical economic  
10 factors as may be deemed appropriate; and promulgate  
11 benefit levels, deductibles, coinsurance factors, exclusions  
12 and limitations determined to be generally reflective of  
13 and commensurate with health insurance coverage  
14 provided through a representative number of large em-  
15 ployers in the state.

16 (c) The board may adjust any deductibles and  
17 coinsurance factors annually according to the medical  
18 component of the consumer price index.

19 (d) *Preexisting conditions.* –

20 (1) Plan coverage shall exclude charges or expenses  
21 incurred during the first six months following the effective  
22 date of coverage as to any condition for which medical  
23 advice, care or treatment was recommended or received as  
24 to such conditions during the six-month period immedi-  
25 ately preceding the effective date of coverage, except that  
26 no preexisting condition exclusion shall be applied to a  
27 federally defined eligible individual. The board may  
28 propose rules for legislative approval in accordance with  
29 the provisions of article three, chapter twenty-nine-a of  
30 this code to propose any other additional class of eligible  
31 individuals to which the preexisting condition exclusion  
32 may not apply.

33 (2) Subject to subdivision (1) of this subsection, the  
34 preexisting condition exclusions shall be waived to the  
35 extent that similar exclusions, if any, have been satisfied  
36 under any prior health insurance coverage which was  
37 involuntarily terminated: *Provided, That:*

38 (A) Application for pool coverage is made not later than  
39 sixty-three days following such involuntary termination  
40 and, in such case, coverage in the plan shall be effective  
41 from the date on which such prior coverage was termi-  
42 nated; and

43 (B) The applicant is not eligible for continuation or  
44 conversion rights that would provide coverage substan-  
45 tially similar to plan coverage.

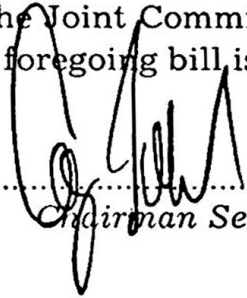
46 (e) *Nonduplication of benefits.* –

47 (1) The plan shall be payer of last resort of benefits  
48 whenever any other benefit or source of third-party

49 payment is available. Benefits otherwise payable under  
50 plan coverage shall be reduced by all amounts paid or  
51 payable through any other health insurance coverage and  
52 by all hospital and medical expense benefits paid or  
53 payable under any workers' compensation coverage,  
54 automobile medical payment or liability insurance,  
55 whether provided on the basis of fault or nonfault, and by  
56 any hospital or medical benefits paid or payable under or  
57 provided pursuant to any state or federal law or program.

58 (2) The plan shall have a cause of action against an  
59 eligible person for the recovery of the amount of benefits  
60 paid that are not for covered expenses. Benefits due from  
61 the plan may be reduced or refused as a set-off against any  
62 amount recoverable under this subdivision.


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

  
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Chairman Senate Committee

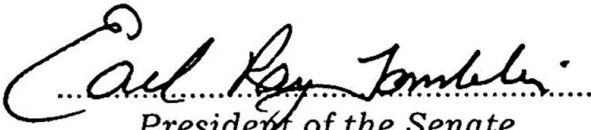
  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
.....  
Speaker House of Delegates

The within is approved ..... this the 5<sup>th</sup> .....  
Day of May ....., 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 5 2009

Time 11:05 AM