WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2009

ENROLLED

Senate Bill No. 767

(By Senators Snyder, Browning, Foster, Minard, Palumbo, Sypolt, White and Williams)

[Passed April 11, 2009; in effect from passage.]
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(BY SENATORS SNYDER, BROWNING, FOSTER, MINARD, PALUMBO, SYPOLT, WHITE AND WILLIAMS)

[Passed April 11, 2009; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9b; and to amend and reenact §9-4-3 of said code, all relating to State Medicaid Agency; exempting certain contracts for the Medicaid program from the competitive bid process of the Division of Purchasing; establishing procedures and requirements for competitive bidding and the awarding of such contracts by the Secretary of the Department of Health and Human Resources; and adding two members to the advisory council of the State Medicaid Agency.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §9-2-9b; and that §9-4-3 of said code be amended and reenacted, all to read as follows:
ARTICLE 2. DEPARTMENT OF HEALTH AND HUMAN RESOURCES, AND OFFICE OF COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.

§9-2-9b. Contract procedure for the Medicaid program.

(a) The secretary is authorized to execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing and independent professional consultant contracts for the Medicaid program.

(b) The provisions of article three, chapter five-a of this code do not apply to contracts set out in subsection (a) of this section: Provided, That the secretary shall comply with the requirements set forth in this section.

(c) The secretary shall develop procedures and requirements for competitive bidding and the awarding of contracts set out in subsection (a) of this section, which procedures and requirements shall include, but are not limited to, the following:

(1) Submitting public notice bids;

(2) The general terms and conditions for the contract;

(3) Awarding contracts;

(4) The description of the commodities and services required for the contract, stated with sufficient clarity to assure that there is a comprehensive understanding of the contract's scope and requirements; and

(5) Contract management procedures which will ensure the assessment of contractor performance and compliance with contract requirements on a regular basis as appropriate for the specific contract and no less frequently than on an annual basis for any contract awarded pursuant to the provisions of this section.
The awarding of the contract may be based on:

1. Best value;
2. Low bid;
3. Sole source; or
4. Any other basis the secretary chooses to award or reject the bid. Provided, that the secretary shall document the basis of any decision made pursuant to the provisions of this subsection.

The secretary may employ the services of independent professional consultants to assist in preparing solicitations or for the evaluation of any responses to such solicitations. Provided, that the independent professional consultant, or member of his or her immediate family, or business with which he or she is associated may not have any interest in the profits or benefits of the contract for which he or she may participate in the preparation of the solicitation or in the evaluation of the response.

The secretary may terminate any contract with thirty days' prior written notice.

ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND; ADVISORY COUNCIL; GENERAL RELIEF FUND.

§9-4-3. Advisory council.

The advisory council, created by chapter one hundred forty-three, Acts of the Legislature, regular session, 1953, as an advisory body to the State Medicaid Agency with respect to the medical services fund and disbursements therefrom and to advise about health and medical services, is continued so long as the medical services fund remains in existence, and thereafter so long as the State Medicaid Agency considers the advisory council to be necessary or desirable, and it is organized as provided by this section and applicable federal law and has those advisory powers.
and duties as are granted and imposed by this section and elsewhere by law.

(b) The advisory council shall consist of not less than nine members, nor more than 15 members, all but four of whom shall be appointed by the State Medicaid Agency and serve until replaced or reappointed on a rotating basis.

(c)(1) The heads of the Bureau of Public Health and Bureau for Medical Services are members ex officio.

(2) The cochairs of the Legislative Oversight Commission on Health and Human Resources Accountability, or their designees, are nonvoting ex officio members.

(3) The remaining members comprising the council consist of:

(A) One member of recognized ability in the field of medicine and surgery with respect to whose appointment the State Medical Association shall be afforded the opportunity of making nomination of three qualified persons;

(B) One member of recognized ability in the field of dentistry with respect to whose appointment the State Dental Association shall be afforded the opportunity of nominating three qualified persons;

(C) One member chosen from a list of three persons nominated by the West Virginia Primary Care Association;

(D) One member chosen from a list of three persons nominated by the Behavioral Health Providers Association of West Virginia; and

(E) The remaining members chosen from persons of recognized ability in the fields of hospital administration, nursing and allied professions and from consumers groups, including medicaid recipients, members of the West
Virginia Directors of Senior and Community Services, labor unions, cooperatives and consumer-sponsored prepaid group practices plans.

(d) The council shall meet on call of the state Medicaid Agency.

(e) Each member of the advisory council shall receive reimbursement for reasonable and necessary travel expenses for each day actually served in attendance at meetings of the council in accordance with the state's travel regulations. Requisitions for the expenses shall be accompanied by an itemized statement, which shall be filed with the Auditor and preserved as a public record.

(f) The advisory council shall assist the State Medicaid Agency in the establishment of rules, standards and bylaws necessary to carry out the provisions of this section and shall serve as consultants to the State Medicaid Agency in carrying out the provisions of this section.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill approved this the 6th Day of

Governor

2009.