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2013 APR 29 PM 5: 08

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

SB194



ENROLLED

Senate Bill No. 194

(BY SENATORS STOLLINGS, JENKINS, KIRKENDOLL,
LAIRD, MILLER, PALUMBO, PLYMALE, PREZIOSO, TUCKER,
YOST, BOLEY AND M. HALL)

[PASSED APRIL 13, 2013; IN EFFECT FROM PASSAGE.]

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SECRETARY OF STATE

Senate Bill No. 194

(BY SENATORS STOLLINGS, JENKINS, KIRKENDOLL,
LAIRD, MILLER, PALUMBO, PLYMALE, PREZIOSO, TUCKER,
YOST, BOLEY AND M. HALL)

[Passed April 13, 2013; in effect from passage.]

AN ACT to repeal §9-2-9b of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-2-6 of said code, relating to contract procedures for Department of Health and Human Resources; providing that previous contracts awarded would remain in full force and effect; and eliminating Department of Health and Human Resources' exemption for contracts for the Medicaid program from purchasing requirements.

Be it enacted by the Legislature of West Virginia:

That §9-2-9b of the Code of West Virginia, as amended, be repealed; and that §9-2-6 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWER, DUTIES AND RESPONSIBILITIES GENERALLY.

§9-2-6. Powers of secretary.

- 1 Within limits of state appropriations and federal grants and
- 2 subject to provisions of state and federal laws and regulations,

3 the secretary, in addition to all other powers, duties and
4 responsibilities granted and assigned to that office in this
5 chapter and elsewhere by law, is authorized to:

6 (1) Promulgate, amend, revise and rescind department
7 rules respecting the organization and government of the
8 department and the execution and administration of those
9 powers, duties and responsibilities granted and assigned by
10 this chapter and elsewhere by law to the department and the
11 secretary.

12 (2) Promulgate, amend, revise and rescind department
13 rules and regulations respecting qualifications for receiving the
14 different classes of welfare assistance consistent with or
15 permitted by federal laws, rules and policies, but not
16 inconsistent with state law: *Provided*, That rules and policies
17 respecting qualifications shall permit the expenditure of state
18 funds to pay for care rendered in any birthing center licensed
19 under the provisions of article two-e, chapter sixteen of this
20 code by a licensed nurse midwife or midwife as this
21 occupation is defined in section one, article fifteen, chapter
22 thirty of this code and which care is within the scope of duties
23 for such licensed nurse midwife or midwife as permitted by
24 the provisions of section seven of said article.

25 (3) Obtain by purchase or lease grounds, buildings, office
26 or other space, equipment, facilities and services as may be
27 necessary for the execution and administration of those
28 powers, duties and responsibilities granted and assigned by
29 this chapter and elsewhere by law to the department and the
30 secretary.

31 (4) Sign and execute in the name of the state by the State
32 Department of Health and Human Resources any contract or
33 agreement with the federal government or its agencies, other

34 states, political subdivisions of this state, corporations,
35 associations, partnerships or individuals: *Provided*, That the
36 provisions of article three, chapter five-a are followed.

37 (5) Sign and execute a contract to implement professional
38 health care, managed care, actuarial and health care-related
39 monitoring, quality review/utilization, claims processing and
40 independent professional consultant contracts for the Medicaid
41 program: *Provided*, That the provisions of article three,
42 chapter five-a are followed: *Provided, however*, That a
43 contract awarded under the agency purchasing process from
44 April 1, 2009, to January 2, 2013, remains in full force and
45 effect and the secretary retains sole authority to review,
46 approve and issue changes to contracts issued under the
47 former purchasing process, and is responsible for challenges,
48 disputes, protests and legal actions related to such contracts.

49 (6) Establish such special funds as may be required by the
50 federal Social Security Act, as amended, or by any other Act
51 or Acts of Congress, in order for this state to take full
52 advantage of the benefits and provisions thereof relating to the
53 federal-state assistance and federal assistance programs
54 administered by the department and to make payments into
55 and disbursements out of any such special fund or funds in
56 accordance with the requirements of the federal Social
57 Security Act, as amended, or any other Act or Acts of
58 Congress, and in accordance with applicable state law and the
59 objects and purposes of this chapter. In addition, the State
60 Department of Health and Human Resources, through the
61 secretary, is hereby authorized to accept any and all gifts or
62 grants, whether in money, land, services or materials, which
63 gift or gifts, if in the form of moneys, shall be placed in a
64 separate fund and expended solely for the purpose of public
65 assistance programs. No part of this special fund shall revert
66 to the General Revenue Funds of this state. No expenses

67 incurred pursuant to this special fund shall be a charge against
68 the General Funds of this state.

69 (7) Establish within the department an Office of Inspector
70 General for the purpose of conducting and supervising
71 investigations and for the purpose of providing quality control
72 for the programs of the department. The Office of Inspector
73 General shall be headed by the Inspector General who shall
74 report directly to the secretary. Neither the secretary nor any
75 employee of the department may prevent, inhibit or prohibit
76 the Inspector General or his or her employees from initiating,
77 carrying out or completing any investigation, quality control
78 review or other activity oversight of public integrity by the
79 Office of the Inspector General. The secretary shall place
80 within the Office of Inspector General any function he or she
81 deems necessary. Qualification, compensation and personnel
82 practice relating to the employees of the Office of the Inspector
83 General, including that of the position of Inspector General,
84 shall be governed by the classified service provisions of article
85 six, chapter twenty-nine of this code and rules promulgated
86 thereunder. The Inspector General shall supervise all
87 personnel of the Office of Inspector General.

88 (8) Provide at department expense a program of
89 continuing professional, technical and specialized instruction
90 for the personnel of the department.

91 (9) Pay from available funds all or part of the reasonable
92 expenses incurred by a person newly employed by the
93 department in moving his household furniture, effects and
94 immediate family from his or her place of residence in this
95 state to his or her place of employment in this state; and to pay
96 from available funds all or part of the reasonable expenses
97 incurred by a department employee in moving his or her
98 household furniture, effects and immediate family as a result

99 of a reassignment of the employee which is considered
100 desirable, advantageous to and in the best interests of the state,
101 but no part of the moving expenses of any one such employee
102 shall be paid more frequently than once in twelve months or
103 for any movement other than from one place of employment in
104 this state to another place of employment in this state.

105 (10) Establish a program to provide reimbursement to
106 employees of the department whose items of personal
107 property, as defined by the department by policy, are damaged
108 during the course of employment or other work-related activity
109 as a result of aggressive behavior by a client or patient
110 receiving services from the department: *Provided*, That such
111 reimbursement is limited to a maximum amount of \$250.00
112 per claim.

113 (11) Establish and maintain such institutions as are
114 necessary for the temporary care, maintenance and training of
115 children and other persons.

116 (12) Prepare and submit state plans which will meet the
117 requirements of federal laws, rules governing federal-state
118 assistance and federal assistance and which are not
119 inconsistent with state law.

120 (13) Organize within the department a Board of Review,
121 consisting of a Chairman appointed by the secretary and as
122 many assistants or employees of the department as may be
123 determined by the secretary and as may be required by federal
124 laws and rules respecting state assistance, federal-state
125 assistance and federal assistance, such Board of Review to
126 have such powers of a review nature and such additional
127 powers as may be granted to it by the secretary and as may be
128 required by federal laws and rules respecting federal-state
129 assistance and federal assistance.

130 (14) Provide by rules review and appeal procedures within
131 the Department of Health and Human Resources as may be
132 required by applicable federal laws and rules respecting state
133 assistance, federal-state assistance and federal assistance and
134 as will provide applicants for, and recipients of all, classes of
135 welfare assistance an opportunity to be heard by the Board of
136 Review, a member thereof or individuals designated by the
137 board, upon claims involving denial, reduction, closure, delay
138 or other action or inaction pertaining to public assistance.

139 (15) Provide by rules, consistent with requirements of
140 applicable federal laws and rules, application forms and
141 application procedures for the various classes of public
142 assistance.

143 (16) Provide locations for making applications for the
144 various classes of public assistance.

145 (17) Provide a citizen or group of citizens an opportunity
146 to file objections and to be heard upon objections to the grant
147 of any class of public assistance.

148 (18) Delegate to the personnel of the department all
149 powers and duties vested in the secretary, except the power
150 and authority to sign contracts and agreements.

151 (19) Make such reports in such form and containing such
152 information as may be required by applicable federal laws and
153 rules respecting federal-state assistance and federal assistance.

154 (20) Invoke any legal, equitable or special remedies for the
155 enforcement of the provisions of this chapter.

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

Rocky Ferguson
.....
member ~~Chairman~~ Senate Committee

Danny Walk
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Joseph M. Minard
.....
Clerk of the Senate

Gregg W. Sawyer
.....
Clerk of the House of Delegates

Jeffrey V. Fisher
.....
President of the Senate

Robert R. Taylor
.....
Speaker of the House of Delegates

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SECRETARY OF STATE

The within *is approved* this the *29th*

Day of *April*, 2013.

Carl Roy Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 3:35 p