

SB 465

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

SENATE BILL NO. 465

(By Senator WALKER)



PASSED MARCH 7, 1996

In Effect NINETY DAYS FROM Passage

ENROLLED

Senate Bill No. 465

(BY SENATOR WALKER)

[Passed March 7, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article one, chapter thirty-three of said code by adding thereto a new section, designated section twenty-one; to amend article sixteen of said chapter by adding thereto a new section, designated section three-i; to amend article twenty-four of said chapter by adding thereto a new section, designated section seven-e; to amend article twenty-five of said chapter by adding thereto a new section, designated section eight-d; and to amend article twenty-five-a of said chapter by adding thereto a new section, designated section eight-d, all relating to the West Virginia public employees insurance agency and other cooperative or private third-party payors of health services; defining emergency services for purposes of coverage within policies issued for accidents and sickness; requiring emergency services coverage to be included in policies issued for groups under the West

Virginia public employees insurance agency; hospital, medical and dental corporations; health care corporations; and health maintenance organizations.

Be it enacted by the Legislature of West Virginia:

That section eight, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article one, chapter thirty-three of said code be amended by adding thereto a new section, designated section twenty-one; that article sixteen of said chapter be amended by adding thereto a new section, designated section three-i; that article twenty-four of said chapter be amended by adding thereto a new section, designated section seven-e; that article twenty-five of said chapter be amended by adding thereto a new section, designated section eight-d; and that article twenty-five-a of said chapter be amended by adding thereto a new section, designated section eight-d, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE
AND ATTORNEY GENERAL; BOARD OF
PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-8. Conditions of insurance program.

1 The insurance plans herein provided for shall be
2 designed by the public employees insurance agency:

3 (1) To provide a reasonable relationship between the
4 hospital, surgical, medical and prescription drug benefits
5 to be included and the expected reasonable and custom-
6 ary hospital, surgical, medical and prescription drug
7 expenses as established by the director to be incurred by
8 the affected employee, his or her spouse and his or her
9 dependents. The establishment of reasonable and cus-
10 tomary expenses by the public employees insurance
11 agency pursuant to the preceding sentence is not subject
12 to the state administrative procedures act in chapter
13 twenty-nine-a of this code.

14 (2) To include reasonable controls which may include
15 deductible and coinsurance provisions applicable to
16 some or all of the benefits, and shall include other
17 provisions, including, but not limited to, copayments,
18 preadmission certification, case management programs
19 and preferred provider arrangements.

20 (3) To prevent unnecessary utilization of the various
21 hospital, surgical, medical and prescription drug services
22 available.

23 (4) To provide reasonable assurance of stability in
24 future years for the plans.

25 (5) To provide major medical insurance for said em-
26 ployees.

27 (6) To provide certain group life and accidental death
28 insurance for the employees covered under this article.

29 (7) To include provisions for the coordination of
30 benefits payable by the terms of such plans with the
31 benefits to which such employee, or his or her spouse or
32 his or her dependents may be entitled by the provisions
33 of any other group hospital, surgical, medical, major
34 medical, or prescription drug insurance or any combina-
35 tion thereof.

36 (8) To provide a cash incentive plan for employees,
37 spouses and dependents by the thirty-first day of De-
38 cember, one thousand nine hundred eighty-eight, to
39 increase utilization of, and to encourage the use of, lower
40 cost alternative health care facilities, health care provid-
41 ers and generic drugs. Such plan shall be reviewed
42 annually by the director and the advisory board.

43 (9) To provide "wellness" programs and activities
44 which will include, but not be limited to, benefit plan
45 incentives to discourage tobacco, alcohol and chemical
46 abuse and an educational program to encourage proper
47 diet and exercise. In establishing "wellness" programs,
48 the division of vocational rehabilitation shall cooperate
49 with the public employees insurance agency in establish-

50 ing statewide wellness programs and with such division
51 of vocational rehabilitation to contact county boards of
52 education for the use of facilities, equipment or any
53 service related to such purpose, at the request of the
54 director, under the authority hereby granted to contract
55 therefor. Boards of education shall be limited to charg-
56 ing only the cost of janitorial service and increased
57 utilities for the use of the gymnasium and related
58 equipment. The cost of the exercise program shall be
59 paid by county boards of education, the public employ-
60 ees insurance agency, or participating employees, their
61 spouses or dependents. All exercise programs shall be
62 made available to all employees, their spouses or de-
63 pendents and shall not be limited to employees of county
64 boards of education.

65 (10) To provide a program, to be administered by the
66 director, for a patient audit plan with reimbursement up
67 to a maximum of one thousand dollars annually, to
68 employees for discovery of health care provider or
69 hospital overcharges when the affected employee brings
70 such overcharge to the attention of the plan. The hospi-
71 tal or health care provider shall certify to the director
72 that it has provided, prior to or simultaneously with the
73 submission of the statement of charges for payments, an
74 itemized statement of the charges to the employee
75 participant for which payment is requested of the plan.

76 (11) To require that all employers give written notice to
77 each covered employee prior to institution of any
78 changes in benefits to employees, and to include appro-
79 priate penalty for any employer not providing the
80 required information to any employee.

81 (12) To provide coverage for emergency services under
82 offered plans. For the purposes of this subsection,
83 "emergency services" means services provided in or by
84 a hospital emergency facility or the private office of a
85 dentist to evaluate and treat a medical condition mani-
86 festing itself by the sudden, and at the time, unexpected
87 onset of symptoms that require immediate medical

88 attention and that failure to provide medical attention
 89 would result in serious impairment to bodily function,
 90 serious dysfunction to any bodily organ or part, or would
 91 place the person's health in jeopardy.

CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-21. Emergency services.

1 Emergency services are those services provided in or
 2 by a hospital emergency facility or the private office of
 3 a dentist to evaluate and treat a medical condition
 4 manifesting itself by the sudden, and at the time, unex-
 5 pected onset of symptoms that require immediate
 6 medical attention and that failure to provide medical
 7 attention would result in serious impairment to bodily
 8 function, serious dysfunction to any bodily organ or part,
 9 or would place the person's health in jeopardy.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3i. Coverage of emergency services.

1 Notwithstanding any provision of any policy, provi-
 2 sion, contract, plan or agreement to which this article
 3 applies, any entity regulated by this article shall, on and
 4 after the first day of July, one thousand nine hundred
 5 ninety-six, provide as benefits to all subscribers and
 6 members coverage for emergency services. A policy,
 7 provision, contract, plan or agreement may apply to
 8 emergency services the same deductibles, coinsurance
 9 and other limitations as apply to other covered services:
 10 *Provided*, That preauthorization or precertification shall
 11 not be required.

ARTICLE 24. HOSPITAL, MEDICAL AND DENTAL CORPORATIONS.

§33-24-7e. Coverage of emergency services.

1 Notwithstanding any provision of any policy, provi-
 2 sion, contract, plan or agreement to which this article
 3 applies, any entity regulated by this article shall, on and
 4 after the first day of July, one thousand nine hundred
 5 ninety-six, provide as benefits to all subscribers and

6 members coverage for emergency services. A policy,
7 provision, contract, plan or agreement may apply to
8 emergency services the same deductibles, coinsurance
9 and other limitations as apply to other covered services:
10 *Provided*, That preauthorization or precertification shall
11 not be required.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8d. Coverage of emergency services.

1 Notwithstanding any provision of any policy, provi-
2 sion, contract, plan or agreement to which this article
3 applies, any entity regulated by this article shall, on and
4 after the first day of July, one thousand nine hundred
5 ninety-six, provide as benefits to all subscribers and
6 members coverage for emergency services. A policy,
7 provision, contract, plan or agreement may apply to
8 emergency services the same deductibles, coinsurance
9 and other limitations as apply to other covered services:
10 *Provided*, That preauthorization or precertification shall
11 not be required.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8d. Coverage of emergency services.

1 Notwithstanding any provision of any policy, provi-
2 sion, contract, plan or agreement to which this article
3 applies, any entity regulated by this article shall, on and
4 after the first day of July, one thousand nine hundred
5 ninety-six, provide as benefits to all subscribers and
6 members coverage for emergency services. A policy,
7 provision, contract, plan or agreement may apply to
8 emergency services the same deductibles, coinsurance
9 and other limitations as apply to other covered services:
10 *Provided*, That preauthorization or precertification shall
11 not be required.

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

Rudy Schomover
.....
Chairman Senate Committee

Rudy Seacrest
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll B. Adams
.....
Clerk of the Senate

Gregory E. Bray
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul E. Coburn
.....
Speaker House of Delegates

The within *is approved* this the *21st*
day of *March*, 1996.

Gaston Caputo
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/96

Time 4:23pm