

H. B. 3033

(By Delegates White, Kominar, T. Campbell,
Perry and Varner)

[Introduced February 7, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §9-2-9b of the Code of West Virginia,
1931, as amended, relating to human services; and contract
procedure for the Medicaid program.

Be it enacted by the Legislature of West Virginia:

That §9-2-9b of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

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

**§9-2-9b. Contract procedure for the Medicaid program; public
advertisement of bids; provisions; rebidding of
certain existing programs.**

(a) The secretary ~~is authorized to~~ may execute a contract to
implement professional health care, managed care, transfer risk
including agreements with entities licensed under the provisions of
chapter thirty-three of the this code or any other state or federal
entity, actuarial and health care-related monitoring, quality

1 review/utilization, claims processing and independent professional
2 consultant contracts for the Medicaid program.

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

7 (c) The secretary shall develop procedures and requirements
8 for competitive bidding and the awarding of contracts set out in
9 subsection (a) of this section, which procedures and requirements
10 shall be developed to ensure fairness and integrity in the
11 procurement process, and shall follow best practices and Department
12 of Health and Human Resources, state and federal procurement
13 policies and requirements surrounding solicitations, bids, and
14 proposals and which procedures and requirements shall include, but
15 are not limited to, the following:

16 (1) Submitting public notice of bids that ensure broad
17 competition for any contracts greater than \$30,000;

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

19 (3) The process for awarding ~~Awarding~~ contracts;

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

24 (5) Contract management procedures which will ensure the

1 assessment of contractor performance and compliance with contract
2 requirements on a regular basis as appropriate for the specific
3 contract and no less frequently than on an annual basis for any
4 contract awarded pursuant to the provisions of this section;

5 (6) All executed contracts shall be limited to three years
6 with two one year extensions, after which they are rebid in
7 accordance with the provisions of this subsection;

8 (7) Providing thirty day prior written notice to the Joint
9 Committee of Government and Finance of the West Virginia
10 Legislature prior to the issuance of any solicitations for all
11 bids, and proposals issued under this section;

12 (8) All contracts issued under this section shall be reviewed
13 by the office of the Attorney General for form prior to execution;

14 (9) All contracts placed for competitive bid or solicitations
15 must be posted in advance on the Department of Health and Human
16 Resources website, and may also be advertised via various media;
17 and

18 (10) In no instance will a sole source procurement process or
19 emergency procurement process be used to circumvent the normal
20 competitive bidding process.

21 (d) The awarding of the contract may be based on:

22 (1) Best value;

23 (2) Low bid;

24 (3) Sole source; or

1 (4) Any other basis the secretary chooses to award or reject
2 the bid: *Provided*, That the secretary shall document the basis of
3 any decision made pursuant to the provisions of this subsection.

4 (e) The secretary may employ the services of independent
5 professional consultants to assist in preparing solicitations or
6 for the evaluation of any responses to such solicitations:
7 *Provided*, That the independent professional consultant, or member
8 of his or her immediate family, or business with which he or she is
9 associated may not have any interest in the profits or benefits of
10 the contract for which he or she may participate in the preparation
11 of the solicitation or in the evaluation of the response.

12 (f) In order to achieve the goal of competitive bidding, a
13 minimum of three bids is preferred.

14 (g) The provisions of article three, chapter five-a of this
15 code do not apply to contracts set out in subsection (a) of this
16 section: *Provided*, That all solicitations for bids and proposals
17 issued under this section shall be advertised in the state
18 purchasing bulletin and the state Purchasing Division shall
19 cooperate in the placement of any advertisement.

20 ~~(f)~~ (h) The secretary may terminate any contract with thirty
21 days' prior written notice.

22 (i) All contracts with managed care companies existing on July
23 1, 2010 that have been implemented are subject to a new procurement
24 as set forth in this section upon renewal.

NOTE: The purpose of this bill is to amend the contract procedure for the Medicaid program. It includes public advertisement of bids and rebidding of certain existing programs

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.