

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 384

BY SENATORS TAKUBO AND STOLLINGS

[Introduced January 25, 2016;

Referred to the Committee on Health and Human
Resources; and then to the Committee on the Judiciary]

1 A BILL to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating
2 to requiring West Virginia Bureau for Medical Services seek federal waiver to provide for
3 exemption from the thirty-day waiting period for a tubal ligation; and making stylistic
4 changes.

Be it enacted by the Legislature of West Virginia:

1 That §9-5-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-12. Medicaid program; maternity and infant care.

1 (a) The Legislature finds that high rates of infant mortality and morbidity are costly to the
2 state in terms of human suffering and of expenditures for long-term institutionalization, special
3 education and medical care. It is well documented that appropriate care during pregnancy and
4 delivery can prevent many of the expensive, disabling problems our children experience. There
5 exists a crisis in this state relating to the availability of obstetrical services, particularly to patients
6 in rural areas, and to the cost patients must pay for obstetrical services. The availability of
7 obstetrical service for Medicaid patients enables these patients to receive quality medical care
8 and to give birth to healthier babies and, consequently, improve the health status of the next
9 generation.

10 The Legislature further recognizes that public and private insurance mechanisms remain
11 inadequate, and poor women and children are among the most likely to be without insurance.
12 Generally, low-income, uninsured children receive half as much health care as their insured
13 counterparts. The state is now investing millions to care for sick infants whose deaths and
14 disabilities could have been avoided.

15 It is the intent of the Legislature that the ~~department of human services~~ Department of
16 Health and Human Resources participate in the Medicaid program for indigent children and
17 pregnant women established by Congress under the Consolidated Omnibus Budget

18 Reconciliation Act (COBRA), Public Law 99-272, the Sixth Omnibus Budget Reconciliation Act
19 (SOBRA), Public Law 99-504, and the Omnibus Budget Reconciliation Act (OBRA), Public Law
20 100-203.

21 (b) The department ~~of human services~~ shall:

22 (1) Extend Medicaid coverage to pregnant women and their newborn infants to one
23 hundred fifty percent of the federal poverty level, effective July 1, 1988.

24 (2) As provided under COBRA, SOBRA and OBRA, effective July 1, 1988, infants shall be
25 included under Medicaid coverage with all children eligible for Medicaid coverage born on or after
26 October 1, 1983, whose family incomes are at or below one hundred percent of the federal poverty
27 level and continuing until such children reach the age of eight years.

28 (3) Elect the federal options provided under COBRA, SOBRA and OBRA impacting
29 pregnant women and children below the poverty level: *Provided*, That no provision in this article
30 shall restrict the department ~~of human services~~ in exercising new options provided by or to be in
31 compliance with new federal legislation that further expands eligibility for children and pregnant
32 women.

33 ~~(4) Enter into an inter-agency agreement with the department of health whereby the~~
34 ~~department of health~~ The department shall be responsible for the implementation and program
35 design for a maternal and infant health care system to reduce infant mortality in West Virginia.
36 The health system design shall include quality assurance measures, case management and
37 patient outreach activities. The department ~~of human services~~ shall assume responsibility for
38 claims processing in accordance with established fee schedules, and financial aspects of the
39 program necessary to receive available federal dollars and to meet federal rules and regulations.

40 ~~(5) The department of health shall transfer to the department of human services through~~
41 ~~inter-agency agreement such state funds as are necessary to implement this program to the~~
42 ~~department of human services medical services account; and the department of human services~~
43 ~~shall, through inter-program transfer, provide such state funds as are necessary to implement this~~
44 ~~program.~~

45 ~~(6)~~ (5) Beginning July 1, 1988, the department of human services shall increase to no less
46 than \$600 the reimbursement rates under the Medicaid program for prenatal care, delivery and
47 post-partum care.

48 (c) In order to be in compliance with the provisions of OBRA, through rules and regulations
49 the department shall ensure that pregnant women and children whose incomes are above the Aid
50 to Families and Dependent Children (AFDC) payment level are not required to apply for
51 entitlements under the AFDC program as a condition of eligibility for Medicaid coverage. Further,
52 the department shall develop a short, simplified pregnancy/pediatric application of no more than
53 three pages, paralleling the simplified OBRA standards.

54 (d) Any woman who establishes eligibility under this section shall continue to be treated
55 as an eligible individual without regard to any change in income of the family of which she is a
56 member until the end of the sixty-day period beginning on the last day of her pregnancy.

57 (e) No later than July 1, 2016, the department shall seek a waiver of the requirements
58 that all women seek thirty-day approval from the federal Center for Medicare and Medicaid
59 Services prior to receiving a tubal ligation.

60 ~~(e) Nothing in this section shall be construed to give the department of health any~~
61 ~~jurisdiction over the Medicaid program or its operations.~~

NOTE: The purpose of this bill is to require the Department of Health and Human Resources to seek a federal waiver of the thirty day notice requirement for a woman to receive a tubal ligation.

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