

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 564**

SENATORS TAKUBO, BALDWIN, BEACH, FACEMIRE,  
HARDESTY, IHLENFELD, JEFFRIES, LINDSAY, MARONEY,  
PREZIOSO, ROMANO, STOLLINGS, UNGER, AND HAMILTON,  
*original sponsors*

[Passed March 9, 2019; in effect 90 days from passage]



1 AN ACT to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and  
2 to amend and reenact §9-5-12 of said code, all relating to expanding certain insurance  
3 coverages for pregnant women; expanding who is eligible to receive certain Medicaid  
4 services; expanding who is eligible to receive certain services through the Children's  
5 Health Insurance Program; providing the minimum services are to be covered; and  
6 providing an effective date.

*Be it enacted by the Legislature of West Virginia:*

**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 16B. WEST VIRGINIA CHILDREN'S HEALTH INSURANCE PROGRAM.**

**§5-16B-6d. Modified benefit plan implementation.**

1 (a) Upon approval by the Centers for Medicare and Medicaid Services, the board shall  
2 implement a benefit plan for uninsured children of families with income between 200 and 300  
3 hundred percent of the federal poverty level.

4 (b) The benefit plans offered pursuant to this section shall include services determined to  
5 be appropriate for children, but may vary from those currently offered by the board.

6 (c) The board shall structure the benefit plans for this expansion to include premiums,  
7 coinsurance or copays, and deductibles. The board shall develop the cost-sharing features in  
8 such a manner as to keep the program fiscally stable without creating a barrier to enrollment.  
9 Such features may include different cost-sharing features within this group based upon the  
10 percentage of the federal poverty level.

11 (d) Provider reimbursement schedules shall be no lower than the reimbursement provided  
12 for the same services under the plans offered in §5-16-1 *et seq.* of this code.

13 (e) The board shall create a benefit plan for comprehensive coverage for pregnant women  
14 between 185 percent and 300 percent of the federal poverty level including prenatal care, delivery,  
15 and 60 days postpartum care under authorization of the Title XXI of the Social Security Act of  
16 1997, 42 U.S.C. § 1397II, and as funding is available after all children up to 300 percent of the  
17 federal poverty level are covered.

18 (f) All provisions of this article are applicable to this expansion unless expressly addressed  
19 in this section.

20 (g) Nothing in this section may be construed to require any appropriation of state General  
21 Revenue Funds for the payment of any benefit provided pursuant to this section, except for the  
22 state appropriation used to match the federal financial participation funds. In the event that federal  
23 funds are no longer authorized for participation by individuals eligible at income levels above 200  
24 percent, the board shall take immediate steps to terminate the expansion provided for in this  
25 section and notify all enrollees of such termination. In the event federal appropriations decrease  
26 for the programs created pursuant to Title XXI of the Social Security Act of 1997, the board is  
27 directed to make those decreases in this expansion program before making changes to the  
28 programs created for those children whose family income is less than 200 percent of the federal  
29 poverty level.

30 (h) The board is directed to report no less than quarterly to the Legislative Oversight  
31 Commission on Health and Human Resources Accountability on the development,  
32 implementation, and progress of the expansion authorized in this section.

## **CHAPTER 9. HUMAN SERVICES.**

### **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 and middle income women and children are among the most likely to be  
12 without insurance. Generally, low-income, uninsured children receive half as much health care as  
13 their insured counterparts. The state is now investing millions to care for sick infants whose deaths  
14 and disabilities could have been avoided.

15 It is the intent of the Legislature that the Department of Health and Human Resources  
16 participate in the Medicaid program for indigent children and pregnant women established by  
17 Congress under the Consolidated Omnibus Budget Reconciliation Act (COBRA), Public Law 99-  
18 272, the Sixth Omnibus Budget Reconciliation Act (SOBRA), Public Law 99-504, and the  
19 Omnibus Budget Reconciliation Act (OBRA), Public Law 100-203.

20 (b) The department shall:

21 (1) Extend Medicaid coverage to pregnant women and their newborn infants to 185  
22 percent of the federal poverty level and to provide coverage up to 60 days postpartum care,  
23 effective July 1, 2019, or as soon as federal approval has occurred.

24 (2) As provided under COBRA, SOBRA, and OBRA, effective July 1, 1988, infants shall  
25 be included under Medicaid coverage with all children eligible for Medicaid coverage born on or  
26 after October 1, 1983, whose family incomes are at or below 100 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 in exercising new options provided by or to be in compliance with  
31 new federal legislation that further expands eligibility for children and pregnant women.

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

38 (5) Beginning July 1, 1988, the department shall increase to no less than \$600 the  
39 reimbursement rates under the Medicaid program for prenatal care, delivery, and post-partum  
40 care.

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

47 (d) Any woman who establishes eligibility under this section shall continue to be treated  
48 as an eligible individual without regard to any change in income of the family of which she is a  
49 member until the end of the 60-day period beginning on the last day of her pregnancy.

50 (e) No later than July 1, 2016, the department shall seek a waiver of the requirements that  
51 all women seek 30-day approval from the federal Center for Medicare and Medicaid Services  
52 prior to receiving a tubal ligation.

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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*