

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2956

FISCAL  
NOTE

BY DELEGATES FLEISCHAUER, LAVENDER-BOWE,  
LONGSTRETH, KESSINGER, MALCOLM, ROHRBACH,  
WALKER, DISERIO, PUSHKIN, S. BROWN AND STAGGERS

[Introduced February 11, 2019; Referred  
to the Committee on Banking and Insurance then the  
Judiciary.]

1 A BILL to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §9-5-12 of said code, all relating to expanding comprehensive  
 3 coverage for pregnant women through Medicaid to 185 percent of the federal poverty  
 4 level; providing coverage for 60 days postpartum; expanding comprehensive coverage for  
 5 pregnant women between 185 percent and 300 of the federal poverty level including  
 6 prenatal care, delivery and 60 days postpartum through the Children’s Health Insurance  
 7 Program.

*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 two hundred and  
 3 three 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 such  
 8 a manner as to keep the program fiscally stable without creating a barrier to enrollment. Such  
 9 features may include different cost-sharing features within this group based upon the percentage  
 10 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 article sixteen of this chapter.

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 CHIPRA and as funding is available after all  
16 children up to 300 percent of the federal poverty level are covered.

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

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

29           ~~(g)~~ (h) The board is directed to report no less than quarterly to the Legislative Oversight  
30 Commission on Health and Human Resources Accountability on the development,  
31 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 ~~one~~  
22 ~~hundred fifty~~ 185 percent of the federal poverty level, effective ~~July 1, 1988~~ July 1, 2019, or as  
23 soon as federal approval has occurred.

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 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  
33 a 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 outreach  
35 activities. The department shall assume responsibility for claims processing in accordance with  
36 established fee schedules, and financial aspects of the program necessary to receive available  
37 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  
51 that all women seek 30-day approval from the federal Center for Medicare and Medicaid Services  
52 prior to receiving a tubal ligation.

NOTE: The purpose of this bill is to expand comprehensive coverage for pregnant women through Medicaid to 185 percent of the federal poverty level; provide coverage for 60 days postpartum; expand comprehensive coverage for pregnant women between 185 percent and 300 of the federal poverty level including prenatal care, delivery and 60 days postpartum through the Children's Health Insurance Program.

Strike-throughs indicate language that would be stricken from a heading or the present law.

and underscoring indicates new language that would be added.