

SB137

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

SENATE BILL NO. 137

(By Senators WAGNER & BAILEY)



PASSED MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

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SENATE OF WEST VIRGINIA

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Senate Bill No. 137

(BY SENATORS WAGNER AND BAILEY)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty, article twenty-nine-b, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hospital rate setting; requiring approvals and expedited reviews for certain hospitals filing rate applications sixty days in advance of the hospital's fiscal year; and requiring retroactive application of the rates if not timely set.

Be it enacted by the Legislature of West Virginia:

That section twenty, article twenty-nine-b, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 29B. HEALTH CARE COST REVIEW AUTHORITY.**§16-29B-20. Rate determination.**

1 (a) Upon commencement of review activities, no rates
2 may be approved by the board nor payment be made for
3 services provided by hospitals under the jurisdiction of
4 the board by any purchaser or third-party payor to or on
5 behalf of any purchaser or class of purchasers unless:

6 (1) The costs of the hospital's services are reasonably
7 related to the services provided and the rates are reason-
8 ably related to the costs;

9 (2) The rates are equitably established among all
10 purchasers or classes of purchasers within a hospital
11 without discrimination unless federal or state statutes or
12 rules and regulations conflict with this requirement. On
13 and after the effective date of this section, a summary of
14 every proposed contract for the payment of patient care
15 services between a purchaser or third-party payor and a
16 hospital shall be filed by the hospital with its rate
17 application for review by the board. No contract for the
18 payment of patient care services between a purchaser or
19 third-party payor and a hospital which establishes
20 discounts to the purchaser or third-party payor shall
21 take effect until it is approved by the board. The board
22 shall approve or deny the proposed contract within the
23 overall rate review period established in section twenty-
24 one of this article. No discount shall be approved by the
25 board which constitutes an amount below the actual cost
26 to the hospital.

27 The hospital shall demonstrate to the board that the
28 cost of any discount contained in the contract will not be
29 shifted to any other purchaser or third-party payor. The
30 hospital shall further demonstrate that the discount will
31 not result in a decrease in its proportion of medicare,
32 medicaid or uncompensated care patients. In addition,
33 the hospital shall demonstrate to the board that the
34 discount is based upon criteria which constitutes a
35 quantifiable economic benefit to the hospital. All
36 information submitted to the board shall be certified by

37 the hospital administrator as to its accuracy and truth-
38 fulness;

39 (3) The rates of payment for medicaid are reasonable
40 and adequate to meet the costs which must be incurred
41 by efficiently and economically operated hospitals
42 subject to the provisions of this article. The rates shall
43 take into account the situation of hospitals which serve
44 disproportionate numbers of low income patients and
45 assure that individuals eligible for medicaid have
46 reasonable access, taking into account geographic
47 location and reasonable travel time, to inpatient hospital
48 services of adequate quality;

49 (4) The rates are equitable in comparison to prevailing
50 rates for similar services in similar hospitals as deter-
51 mined by the board; and

52 (5) In no event shall a hospital's receipt of emergency
53 disaster funds from the federal government be included
54 in the hospital's gross revenues for either rate-setting or
55 assessment purposes.

56 (b) In the interest of promoting efficient and appropri-
57 ate utilization of hospital services, the board shall review
58 and make findings on the appropriateness of projected
59 gross revenues for a hospital as the revenues relate to
60 charges for services and anticipated incidence of service.
61 The board shall further render a decision as to the
62 amount of net revenue over expenditures that is appro-
63 priate for the effective operation of the hospital.

64 (c) When applying the criteria set forth in subsections
65 (a) and (b) of this section, the board shall consider all
66 relevant factors, including, but not limited to, the
67 following: The economic factors in the hospital's area;
68 the hospital's efforts to share services; the hospital's
69 efforts to employ less costly alternatives for delivering
70 substantially similar services or producing substantially
71 similar or better results in terms of the health status of
72 those served; the efficiency of the hospital as to cost and
73 delivery of health care; the quality of care; occupancy

74 level; a fair return on invested capital, not otherwise
75 compensated for; whether the hospital is operated for
76 profit or not-for-profit; costs of education; and income
77 from any investments and assets not associated with
78 patient care, including, but not limited to, parking
79 garages, residences, office buildings, and income from
80 related organizations and restricted funds whether or
81 not associated with patient care.

82 (d) Wages, salaries and benefits paid to or on behalf of
83 nonsupervisory employees of hospitals subject to this
84 article are not subject to review unless the board first
85 determines that the wages, salaries and benefits may be
86 unreasonably or uncustomarily high or low. This exemp-
87 tion does not apply to accounting and reporting require-
88 ments contained in this article, nor to any that may be
89 established by the board. The term "nonsupervisory
90 personnel", for the purposes of this section, means, but
91 is not limited to, employees of hospitals subject to the
92 provisions of this article who are paid on an hourly basis.

93 (e) Reimbursement of capital and operating costs for
94 new services and capital projects subject to article two-d
95 of this chapter shall not be allowed by the board if the
96 costs were incurred subsequent to the eighth day of July,
97 one thousand nine hundred seventy-seven, unless they
98 were exempt from review or approved: (i) By the state
99 health planning and development agency prior to the
100 first day of July, one thousand nine hundred eighty-four;
101 or (ii) thereafter, pursuant to the provisions of article
102 two-d of this chapter.

103 (f) The board shall consult with relevant licensing
104 agencies and may require them to provide written
105 findings with regard to their statutory functions and
106 information obtained by them in the pursuit of those
107 functions. Any licensing agency empowered to suggest
108 or mandate changes in buildings or operations of hospi-
109 tals shall give notice to the board together with any
110 findings.

111 (g) A hospital shall file a complete rate application

112 with the board on an annual basis a minimum of sixty
113 days prior to the beginning of its fiscal year. If the
114 application is filed and determined to be complete by the
115 board sixty days prior to the beginning of the hospital's
116 fiscal year, and no hearing is requested on the applica-
117 tion, the board shall set the rates in advance of the year
118 during which they apply and shall not adjust the rates
119 for costs actually incurred: *Provided*, That if the board
120 does not establish rates by the beginning of the hospital's
121 fiscal year, and a hearing has not been requested, the
122 board shall establish rates retroactively to the beginning
123 of the hospital's fiscal year: *Provided, however*, That if
124 the board does not establish rates by the beginning of the
125 hospital's fiscal year, and a hearing has been requested,
126 the board may establish rates retroactively to the begin-
127 ning of the fiscal year. This subsection shall not apply to
128 the procedure set forth in subsection (c), section twenty-
129 one of this article.

130 (h) All determinations, orders and decisions of the
131 board with respect to rates and revenues shall be pro-
132 spective in nature, except as provided in subsection (g)
133 of this section, when rates are not timely set.

134 (i) No hospital may charge for services at rates in
135 excess of those established in accordance with the
136 requirements of and procedures set forth in this article.

137 (j) Notwithstanding any other provision of this article,
138 the board shall approve all requests for rate increases by
139 hospitals which are licensed for one hundred beds or less
140 and which are not located in a standard metropolitan
141 statistical area where the rate of increase is equal to or
142 less than the lowest rate of inflation as established by a
143 recognized inflation index for either the national or
144 regional hospital industry. The board may, by rule,
145 impose reporting requirements to ensure that a hospital
146 does not exceed the rate of increases permitted in this
147 section.

148 (k) Notwithstanding any other provision of this article,
149 the board shall develop an expedited review process

150 applicable to all hospitals licensed for more than one
151 hundred beds or that are located in a standard metropol-
152 itan statistical area for rate increase requests which may
153 be based upon a recognized inflation index for the
154 national or regional hospital industry.

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

Henry Schaefer

.....
Chairman Senate Committee

Rudy Seaint

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Adams

.....
Clerk of the Senate

Suzanne M. King

.....
Clerk of the House of Delegates

Earl Ray Tomblin

.....
President of the Senate

Paul Cabrer

.....
Speaker House of Delegates

The within is approved this the 28th
day of March, 1996.

Gaston Caperton

.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 2:15 pm