

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 188**

4 (By Senators Kessler (Mr. President) and M. Hall,

5 By Request of the Executive)

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7 [Originating in the Committee on Health and Human Resources;
8 reported March 15, 2013.]
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11
12 A BILL to amend and reenact §9-2-9 of the Code of West Virginia,
13 1931, as amended; and to amend and reenact §24A-1-3 of said
14 code, all relating generally to creating a vendor
15 transportation program within the Department of Health and
16 Human Resources; providing for nonemergency transport of
17 Medicaid service recipients; setting forth contracting
18 requirements; requiring an annual report on the program to the
19 Legislature; exempting specified motor vehicles from the
20 jurisdiction of the Public Service Commission; subjecting
21 exempted vehicles to safety and insurance exception
22 requirements of the Public Service Commission; and making
23 technical corrections.

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

1 That §9-2-9 of the Code of West Virginia, 1931, as amended, be
2 amended and reenacted; and that §24A-1-3 of said code be amended
3 and reenacted, all to read as follows:

4 **CHAPTER 9. HUMAN SERVICES.**

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

7 **§9-2-9. Secretary to develop medicaid monitoring and case**
8 **management.**

9 (a) The Secretary of the Department of Health and Human
10 Resources shall:

11 (1) Develop a managed care system to monitor the services
12 provided by the Medicaid program to individual clients;

13 (2) Develop an independent referral service, including the
14 review of individual cases for abuses of the program; and

15 (3) Develop a schedule for implementation of the managed care
16 and independent referral system. The managed care system shall
17 focus on, but not be limited to, the behavioral health and mental
18 health services.

19 (b) In addition thereto, and in accordance with applicable
20 federal Medicaid laws, the secretary shall prepare recommendations,
21 to be submitted to the Joint Committee on Government and Finance.
22 In developing recommendations the secretary shall consider as
23 options the following:

24 (1) Review of Medicaid services which are optional under

1 federal Medicaid law and identification of services to be retained,
2 reduced or eliminated;

3 (2) The elimination, reduction or phase-out of: (I) Services
4 which are not generally available to West Virginia citizens not
5 covered under the state's Medicaid program; or (ii) services which
6 are not generally covered under group policies of insurance made
7 available to employees of employers within the state;

8 (3) The elimination or reduction of services, or reduction of
9 provider reimbursement rates, for identified services of marginal
10 utility;

11 (4) Higher reimbursement rates for primary and preventive
12 care;

13 (5) Changes in fee structure, which may include a system of
14 prospective payments, and may include establishment of global fees
15 for identified services or diagnoses including maternity care;

16 (6) Utilization caps for certain health care procedures;

17 (7) Restriction of coverage for cosmetic procedures;

18 (8) Identification of excessive use of certain health care
19 procedures by individuals and a policy to restrict excessive use;

20 (9) Identification of services which reduce the need for more
21 costly options for necessary care and retention or expansion of
22 those programs;

23 (10) Identification of services for which preauthorization is
24 a requirement for Medicaid reimbursement;

1 (11) Recommendations relating to the development of a
2 demonstration project on long-term care, which demonstration
3 project may be limited to patients with Alzheimer's disease;

4 (12) A policy concerning the department's procedures for
5 compliance, monitoring and inspection; and

6 (13) Such other options as may be developed.

7 (c) The secretary shall utilize in-state health care
8 facilities for inpatient treatment when such facilities are
9 available. Prior authorization, consistent with applicable federal
10 law, shall be required for out-of-state inpatient treatment.

11 (d) The secretary shall report to the Joint Committee on
12 Government and Finance on the development and implementation of
13 Medicaid programs that provide incentives to working persons. The
14 secretary shall consider: Subsidies for low income working
15 persons; individual or small employer buy-ins to the State Medicaid
16 Fund; prospective payment systems for primary care physicians in
17 underserved areas; and a system to improve monitoring of
18 collections, expenditures, service delivery and utilization.

19 (e) The secretary shall report quarterly to the Joint
20 Committee on Government and Finance regarding provider and facility
21 compliance with federal and state Medicaid laws, including, but not
22 limited to, the following: The number of inspections conducted
23 during the previous quarter; description of programs, services and
24 facilities reviewed; findings; and recommendations for corrections.

1 (f) The secretary shall, upon federal certification of the
2 claims management system, ensure that the claims management system
3 processing Medicaid claims provides:

4 (1) Detailed quarterly financial reports to the Legislative
5 Oversight Commission on Health and Human Resources Accountability;

6 (2) A management reporting system no later than July 1, 2006;
7 and

8 (3) Specific utilization data by provider, member eligibility
9 groups and service no later than October 1, 2006.

10 (g) (1) The secretary shall develop a vendor transportation
11 program for the transportation of Medicaid service recipients for
12 covered services.

13 (2) The secretary shall enter into a contract or contracts
14 with a transportation vendor or vendors to provide transportation
15 services to Medicaid service recipients. These contracts are
16 subject to the provisions of article three, chapter five-a of this
17 code. The contracts shall include, at a minimum:

18 (A) a requirement that the transportation vendor maintain
19 liability insurance;

20 (B) a requirement that the transportation vendor comply with
21 all federal, state and local laws and ordinances governing vehicle
22 and driver licensure operation;

23 (C) transportation vendor record keeping requirements,
24 including confidentiality requirements and availability of records

1 to the Secretary;

2 (D) standard reimbursement rates for transporting Medicaid
3 service recipients;

4 (E) monthly statements by the transportation vendor including
5 timeframes for submission and processing of statements for payment;

6 (F) standard policies regarding pickups and discharges,
7 approved purposes for transport, transportation of persons with
8 special needs, service delivery areas, transportation in inclement
9 weather, cancellation of scheduled transports, Medicaid service
10 recipients complaint procedures, standard waiting times, and any
11 other policy necessary for proper administration of the contract;
12 and,

13 (G) standard contracting language including, but limited to,
14 provisions for duration, extension, cancellation and termination of
15 the contract.

16 (3) Public transit programs receiving funding from the State
17 or Federal Transit Administration for the purpose of providing
18 general public transportation may contract with the transportation
19 vendor in order to provide non-emergency transportation services to
20 Medicaid recipients but are not required to do so. Any area agency
21 on aging or local provider of direct services to senior citizens or
22 older individuals as defined by section three, article five-S,
23 chapter sixteen of this code, who operates a transit service may
24 contract with the transportation vendor in order to provide non-

1 emergency transportation services to Medicaid recipients but are
2 not required to do so. Ambulances licensed under the provisions of
3 article four-C of chapter sixteen of this code may transport
4 Medicaid service recipients without being required to participate
5 in the vendor transportation program.

6 (4) The secretary shall prepare an annual report to the
7 Legislative Oversight Commission on Health and Human Resources
8 Accountability on operation of the vendor transportation contract.
9 The report shall be filed no later than December 31, of each year.
10 The report shall include, but is not limited to, the effectiveness
11 of the use of contracted transportation vendors, the impact on the
12 state Medicaid budget and the impact on public transit and
13 emergency medical transportation squads.

14 **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

15 **ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.**

16 **§24A-1-3. Exemptions from chapter.**

17 The provisions of this chapter, except where specifically
18 otherwise provided, do not apply to:

19 (1) Motor vehicles operated exclusively in the transportation
20 of United States mail or in the transportation of newspapers:
21 *Provided*, That the vehicles and their operators are subject to the
22 safety rules promulgated by the commission;

23 (2) Motor vehicles owned and operated by the United States of
24 America, the State of West Virginia or any county, municipality or

1 county board of education, urban mass transportation authority
2 established and maintained pursuant to article twenty-seven,
3 chapter eight of this code, or by any of their departments, and ~~any~~
4 motor vehicles operated under a contract with a county board of
5 education exclusively for the transportation of children to and
6 from school or other legitimate transportation for the schools as
7 the commission may specifically authorize;

8 (3) Motor vehicles used exclusively in the transportation of
9 agricultural or horticultural products, livestock, poultry and
10 dairy products from the farm or orchard on which they are raised or
11 produced to markets, processing plants, packing houses, canneries,
12 railway shipping points and cold storage plants, and in the
13 transportation of agricultural or horticultural supplies to farms
14 or orchards where they are to be used: *Provided*, That the vehicles
15 that are exempted by this subdivision and are also operated by
16 common carriers by motor vehicle or contract carriers by motor
17 vehicle and their operators are subject to the safety and insurance
18 rules promulgated by the commission;

19 (4) Motor vehicles used exclusively in the transportation of
20 human or animal excreta;

21 (5) Motor vehicles used exclusively in ambulance service or
22 duly chartered rescue squad service;

23 (6) Motor vehicles used exclusively for volunteer fire
24 department service;

1 (7) Motor vehicles used exclusively in the transportation of
2 coal from mining operations to loading facilities for further
3 shipment by rail or water carriers: *Provided*, That the vehicles
4 and their operators are subject to the safety rules promulgated by
5 the commission and the vehicles that are exempted by this
6 subdivision and are also operated by common carriers by motor
7 vehicle or contract carriers by motor vehicle and their operators
8 are subject to the insurance rules promulgated by the commission;

9 (8) Motor vehicles used by petroleum commission agents and oil
10 distributors solely for the transportation of petroleum products
11 and related automotive products when the transportation is
12 incidental to the business of selling the products: *Provided*, That
13 the vehicles and their operators are subject to the safety rules
14 promulgated by the commission and the vehicles that are exempted by
15 this subdivision and are also operated by common carriers by motor
16 vehicle or contract carriers by motor vehicle and their operators
17 are subject to the insurance rules promulgated by the commission;

18 (9) Motor vehicles owned, leased by or leased to any person
19 and used exclusively for the transportation of processed
20 source-separated recycled materials, generated by commercial,
21 institutional and industrial customers, transported free of charge
22 from the customers to a facility for further processing: *Provided*,
23 That the vehicles and their operators ~~shall be~~ are subject to the
24 safety rules promulgated by the commission and the vehicles that

1 are exempted by this subdivision and are also operated by common
2 carriers by motor vehicle or contract carriers by motor vehicle and
3 their operators are subject to the insurance rules promulgated by
4 the commission;

5 (10) Motor vehicles specifically preempted from state economic
6 regulation of intrastate motor carrier operations by the provisions
7 of 49 U.S.C. § 14501 as amended by Title I, Section 103 of the
8 federal "Interstate Commerce Commission Termination Act of 1995:"
9 *Provided*, That the vehicles and their operators are subject to the
10 safety regulations promulgated by the commission and the vehicles
11 that are exempted by this subdivision and are also operated by
12 common carriers by motor vehicle or contract carriers by motor
13 vehicle and their operators are subject to the insurance rules
14 promulgated by the commission;

15 (11) Motor vehicles designated by the West Virginia Bureau of
16 Senior Services for use and operation by local county aging
17 programs: *Provided*, That the vehicles and their operators are
18 subject to the safety rules promulgated by the commission;

19 (12) Motor vehicles designated by the West Virginia Division
20 of Public Transit operated by organizations that receive federal
21 grants from the federal transit administration: *Provided*, That the
22 vehicles and their operators are subject to the safety and
23 insurance rules promulgated by the commission; and

24 (13) Motor vehicles designated by the West Virginia Department

1 of Health and Human Resources, one or more of its bureaus, or its
2 contracted transportation vendors for use and operation solely to
3 transport Medicaid clients to covered services pursuant to the
4 vendor transportation program set forth in subsection (g), section
5 nine, article two, chapter nine of this code. These vehicles and
6 their operators are, however, subject to the safety and insurance
7 rules promulgated by the commission.

NOTE: The purpose of this bill is to create a Medicaid vendor transportation program that exempts Department of Health and Human Resources motor vehicles used solely to transport Medicaid clients from the jurisdiction of the Public Service Commission. The bill provides that those vehicles are subject to the commission's safety and insurance rules. The program requires written agreements with contracted transportation vendors. The bill also requires the Secretary of the Department of Health and Human Resources to report the effectiveness of the program to the Legislative Oversight Commission on Health and Human Resources Accountability after one year.

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