ENROLLED

Senate Bill No. 194

(BY SENATORS STOLLINGS, JENKINS, KIRKENDOLL, LAIRD, MILLER, PALUMBO, PLYMALE,
PREZIOSO, TUCKER, YOST, BOLEY AND M. HALL)

[Passed April 13, 2013; in effect from passage.]

AN ACT to repeal §9-2-9b of the Code of West Virginia, 1931, as
amended; and to amend and reenact §9-2-6 of said code,
relating to contract procedures for Department of Health and
Human Resources; providing that previous contracts awarded
would remain in full force and effect; and eliminating
Department of Health and Human Resources’ exemption for
contracts for the Medicaid program from purchasing
requirements.

Be it enacted by the Legislature of West Virginia:

That §9-2-9b of the Code of West Virginia, as amended, be
repealed; and that §9-2-6 of said code be amended and reenacted,
all to read as follows:

ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWER, DUTIES AND
RESPONSIBILITIES GENERALLY.


Within limits of state appropriations and federal grants and
1 subject to provisions of state and federal laws and regulations,
2 the secretary, in addition to all other powers, duties and
3 responsibilities granted and assigned to that office in this
4 chapter and elsewhere by law, is authorized to:
5 (1) Promulgate, amend, revise and rescind department rules
6 respecting the organization and government of the department and
7 the execution and administration of those powers, duties and
8 responsibilities granted and assigned by this chapter and elsewhere
9 by law to the department and the secretary.
10 (2) Promulgate, amend, revise and rescind department rules and
11 regulations respecting qualifications for receiving the different
12 classes of welfare assistance consistent with or permitted by
13 federal laws, rules and policies, but not inconsistent with state
14 law: Provided, That rules and policies respecting qualifications
15 shall permit the expenditure of state funds to pay for care
16 rendered in any birthing center licensed under the provisions of
17 article two-e, chapter sixteen of this code by a licensed nurse
18 midwife or midwife as this occupation is defined in section one,
19 article fifteen, chapter thirty of this code and which care is
20 within the scope of duties for such licensed nurse midwife or
21 midwife as permitted by the provisions of section seven of said
22 article.
23 (3) Obtain by purchase or lease grounds, buildings, office or
24 other space, equipment, facilities and services as may be necessary
for the execution and administration of those powers, duties and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(4) Sign and execute in the name of the state by the State Department of Health and Human Resources any contract or agreement with the federal government or its agencies, other states, political subdivisions of this state, corporations, associations, partnerships or individuals: Provided, That the provisions of article three, chapter five-a are followed.

(5) Sign and execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing and independent professional consultant contracts for the Medicaid program: Provided, That the provisions of article three, chapter five-a are followed: Provided, however, That a contract awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in full force and effect and the secretary retains sole authority to review, approve and issue changes to contracts issued under the former purchasing process, and is responsible for challenges, disputes, protests and legal actions related to such contracts.

(6) Establish such special funds as may be required by the federal Social Security Act, as amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of
the benefits and provisions thereof relating to the federal-state assistance and federal assistance programs administered by the department and to make payments into and disbursements out of any such special fund or funds in accordance with the requirements of the federal Social Security Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state law and the objects and purposes of this chapter. In addition, the State Department of Health and Human Resources, through the secretary, is hereby authorized to accept any and all gifts or grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of public assistance programs. No part of this special fund shall revert to the General Revenue Funds of this state. No expenses incurred pursuant to this special fund shall be a charge against the General Funds of this state.

(7) Establish within the department an Office of Inspector General for the purpose of conducting and supervising investigations and for the purpose of providing quality control for the programs of the department. The Office of Inspector General shall be headed by the Inspector General who shall report directly to the secretary. Neither the secretary nor any employee of the department may prevent, inhibit or prohibit the Inspector General or his or her employees from initiating, carrying out or completing any investigation, quality control review or other activity
oversight of public integrity by the Office of the Inspector General. The secretary shall place within the Office of Inspector General any function he or she deems necessary. Qualification, compensation and personnel practice relating to the employees of the Office of the Inspector General, including that of the position of Inspector General, shall be governed by the classified service provisions of article six, chapter twenty-nine of this code and rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of Inspector General.

(8) Provide at department expense a program of continuing professional, technical and specialized instruction for the personnel of the department.

(9) Pay from available funds all or part of the reasonable expenses incurred by a person newly employed by the department in moving his household furniture, effects and immediate family from his or her place of residence in this state to his or her place of employment in this state; and to pay from available funds all or part of the reasonable expenses incurred by a department employee in moving his or her household furniture, effects and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state, but no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months or for any movement other than from one place of employment in this
1 state to another place of employment in this state.

(10) Establish a program to provide reimbursement to employees of the department whose items of personal property, as defined by the department by policy, are damaged during the course of employment or other work-related activity as a result of aggressive behavior by a client or patient receiving services from the department: Provided, That such reimbursement is limited to a maximum amount of $250.00 per claim.

(11) Establish and maintain such institutions as are necessary for the temporary care, maintenance and training of children and other persons.

(12) Prepare and submit state plans which will meet the requirements of federal laws, rules governing federal-state assistance and federal assistance and which are not inconsistent with state law.

(13) Organize within the department a Board of Review, consisting of a Chairman appointed by the secretary and as many assistants or employees of the department as may be determined by the secretary and as may be required by federal laws and rules respecting state assistance, federal-state assistance and federal assistance, such Board of Review to have such powers of a review nature and such additional powers as may be granted to it by the secretary and as may be required by federal laws and rules respecting federal-state assistance and federal assistance.
(14) Provide by rules review and appeal procedures within the Department of Health and Human Resources as may be required by applicable federal laws and rules respecting state assistance, federal-state assistance and federal assistance and as will provide applicants for, and recipients of all, classes of welfare assistance an opportunity to be heard by the Board of Review, a member thereof or individuals designated by the board, upon claims involving denial, reduction, closure, delay or other action or inaction pertaining to public assistance.

(15) Provide by rules, consistent with requirements of applicable federal laws and rules, application forms and application procedures for the various classes of public assistance.

(16) Provide locations for making applications for the various classes of public assistance.

(17) Provide a citizen or group of citizens an opportunity to file objections and to be heard upon objections to the grant of any class of public assistance.

(18) Delegate to the personnel of the department all powers and duties vested in the secretary, except the power and authority to sign contracts and agreements.

(19) Make such reports in such form and containing such information as may be required by applicable federal laws and rules respecting federal-state assistance and federal assistance.
(20) Invoke any legal, equitable or special remedies for the enforcement of the provisions of this chapter.