

Senate Bill No. 188

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

By Request of the Executive)

[Introduced February 15, 2013; referred to the Committee on
Health and Human Resources; and then to the Committee on
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §9-2-9 of the Code of West Virginia,
1931, as amended; and to amend and reenact §24A-1-3 of said
code, all relating to creating a vendor transportation program
within the Department of Health and Human Resources to
transport Medicaid patients for nonemergency transportation
services; requiring that the Secretary of the Department of
Health and Human Resources report on the effectiveness of the
program to the Legislative Oversight Commission on Health and
Human Resources Accountability; exempting motor vehicles used
by or on behalf of the Department of Health and Human
Resources in connection with the vendor transportation program
from the jurisdiction of the Public Service Commission;

1 providing a safety and insurance exception to this exemption;
2 and making technical changes.

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

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

7 **CHAPTER 9. HUMAN SERVICES.**

8 **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND**
9 **RESPONSIBILITIES GENERALLY.**

10 **§9-2-9. Secretary to develop medicaid monitoring and case**
11 **management.**

12 (a) The Secretary of the Department of Health and Human
13 Resources shall:

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

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

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

22 (b) In addition thereto, and in accordance with applicable

1 federal Medicaid laws, the secretary shall prepare recommendations,
2 to be submitted to the Joint Committee on Government and Finance.
3 In developing recommendations the secretary shall consider as
4 options the following:

5 (1) Review of Medicaid services which are optional under
6 federal Medicaid law and identification of services to be retained,
7 reduced or eliminated;

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

13 (3) The elimination or reduction of services, or reduction of
14 provider reimbursement rates, for identified services of marginal
15 utility;

16 (4) Higher reimbursement rates for primary and preventive
17 care;

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

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

22 (7) Restriction of coverage for cosmetic procedures;

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

3 (9) Identification of services which reduce the need for more
4 costly options for necessary care and retention or expansion of
5 those programs;

6 (10) Identification of services for which preauthorization is
7 a requirement for medicaid reimbursement;

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

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

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

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

18 (d) The secretary shall report to the Joint Committee on
19 Government and Finance on the development and implementation of
20 Medicaid programs that provide incentives to working persons. The
21 secretary shall consider: Subsidies for low income working
22 persons; individual or small employer buy-ins to the State Medicaid

1 Fund; prospective payment systems for primary care physicians in
2 underserved areas; and a system to improve monitoring of
3 collections, expenditures, service delivery and utilization.

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

10 (f) The secretary shall, upon federal certification of the
11 claims management system, ensure that the claims management system
12 processing Medicaid claims provides:

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

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

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

19 (g) The secretary shall develop a vendor transportation
20 program for the transportation of Medicaid clients to covered
21 services pursuant to written agreements with contracted
22 transportation vendors. The secretary shall report to the

1 Legislative Oversight Commission on Health and Human Resources
2 Accountability one year after the implementation of the vendor
3 transportation program on the effectiveness of the use of
4 contracted transportation vendors, the impact on the state Medicaid
5 budget and the impact on public transit and emergency medical
6 transportation squads.

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

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

9 **§24A-1-3. Exemptions from chapter.**

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

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

16 (2) Motor vehicles owned and operated by the United States of
17 America, the State of West Virginia or any county, municipality or
18 county board of education, urban mass transportation authority
19 established and maintained pursuant to article twenty-seven,
20 chapter eight of this code, or by any of their departments, and ~~any~~
21 motor vehicles operated under a contract with a county board of
22 education exclusively for the transportation of children to and

1 from school or other legitimate transportation for the schools as
2 the commission may specifically authorize;

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

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

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

18 (6) Motor vehicles used exclusively for volunteer fire
19 department service;

20 (7) Motor vehicles used exclusively in the transportation of
21 coal from mining operations to loading facilities for further
22 shipment by rail or water carriers: *Provided*, That the vehicles

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

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

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

1 carriers by motor vehicle or contract carriers by motor vehicle and
2 their operators are subject to the insurance rules promulgated by
3 the commission;

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

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

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

1 (13) Motor vehicles designated by the West Virginia Department
2 of Health and Human Resources, one or more of its bureaus, or its
3 contracted transportation vendors for use and operation solely to
4 transport Medicaid clients to covered services pursuant to the
5 vendor transportation program set forth in subsection (g), section
6 nine, article two, chapter nine of this code: *Provided, That the*
7 vehicles and their operators are subject to the safety and
8 insurance 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.