



Emergency

RICHARD G. SHAW
INSURANCE COMMISSIONER

OFFICES OF THE
INSURANCE COMMISSIONER
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TELEPHONE (304) 348-3386

JOHN D. ROCKEFELLER, IV
GOVERNOR

STATE REGISTER FILING

I, Richard G. Shaw, Commissioner,
Title or Position

Insurance, hereby submit to record in
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- () proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- (X) proposed rules and regulations superseding rules and regulations already on file; (Emergency)
- () notice of hearing;
- () findings and determinations;
- (.) rules and regulations; or
- (X) other - specify (Statement of Emergency Justifying)

This filing pertains to

Chapter	<u>16</u>	<u>33</u>
Article	<u>5D</u>	<u>2</u>
Series	<u>XVIII</u>	<u>XVIII</u>
Section	<u>10</u>	<u>10</u>
Page No.	<u>-</u>	<u>-</u>

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1984 OCT 18 PM 3:14
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

- (X) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- () proposed rules and regulations are excluded from Legislative Rule Making Committee;

October 18, 1984
Date Submitted

Richard G. Shaw
Signature of Person Authorizing
this Filing

STATE OF WEST VIRGINIA



Emergency

RICHARD G. SHAW
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JOHN D. ROCKEFELLER, IV
GOVERNOR

October 18, 1984

Legislative Rule-Making Review Committee
c/o Legislative Services
Room E-132
State Capitol
Charleston, WV 25305

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1984 OCT 18 PM 3:29

FILED

Re: Submission of Legislative Rule
of the Insurance Commissioner
(Emergency), Series XVIII,
Supplemental Insurance Coverage
for Continuum of Care Services

Dear Committee Members:

Pursuant to the provisions of West Virginia Code § 29-A-3-15, enclosed please find fifteen (15) copies of the above-noted emergency legislative rule as filed in the Office of the Secretary of State on October 18, 1984. This letter constitutes the statement of emergency in support of such rule.

This emergency rule supercedes and replaces the previous emergency rule of the same series number which became effective on April 26, 1984. This rule is identical to the April 26th rule; it is being refiled due to the independent expiration of the previous rule pursuant to West Virginia Code § 29A-3-15(a).

I have attached a copy of my letters to the Committee which accompanied filing of the April 26th rule. The situation described in that letter has not changed substantially. The 1984 session of the legislature did not amend the implementation date of the insurance provisions of West Virginia Code § 16-5D-10. Further,

"We are an Equal Opportunity Employer"

Page 2
October 18, 1984
Legislative Rule-Making Review Committee
Series XVIII, Supplemental Insurance
Coverage for Continuum of Care Services

standards for the continuum of care program have not yet been established by the Continuum of Care Board. Accordingly, as explained in the attached letter, there is no option but to refile the existing emergency rule.

Please contact me if you have questions concerning this matter.

Sincerely,



Richard G. Shaw
Insurance Commissioner

RGS/pss

Enclosure

STATE OF WEST VIRGINIA



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1984 OCT 18 PM 3:30

OFFICES OF THE OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

INSURANCE COMMISSIONER

JOHN D. ROCKEFELLER, IV
GOVERNOR

RICHARD G. SHAW
INSURANCE COMMISSIONER

2100 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305
TELEPHONE (304) 348-3386

April 26, 1984

Legislative Rule-Making Review Committee
c/o Legislative Services
Room E-132
State Capitol
Charleston, West Virginia 25305

Re: Submission of Legislative Rule of the
Insurance Commissioner (Emergency),
Series XVIII, Supplemental Insurance
Coverage for Continuum of Care Services

Dear Committee Members:

Pursuant to the provisions of West Virginia Code § 29A-3-15, enclosed please find fifteen (15) copies of the above-noted emergency legislative rule as filed in the Office of the Secretary of State on April 26, 1984. This letter constitutes the statement of emergency in support of such rule.

This emergency rule supercedes and replaces the previous emergency rule of the same series number which became effective on November 1, 1983. This rule is identical to the November 1st rule; it is being refiled due to the impending expiration of the previous rule pursuant to West Virginia Code § 29A-3-15(a).

I have attached a copy of my letter to the Committee which accompanied filing of the November 1st rule. The situation described in that letter has not changed substantially. The 1984 session of the legislature did not amend the implementation date of the insurance

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE April 26, 1984
Administrative Law Section

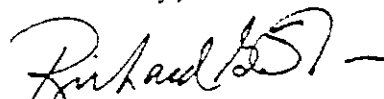
"We are an Equal Opportunity Employer"

Page 2
April 26, 1984
Legislative Rule-Making Review Committee
Series XVIII, Supplemental Insurance
Coverage for Continuum of Care Services

provisions of West Virginia Code § 16-5D-10. Further, standards for the continuum of care program have not yet been established by the Continuum of Care Board. Accordingly, as explained in the attached letter, there is no option but to refile the existing emergency rule.

Please contact me if you have questions concerning this matter.

Sincerely,



Richard G. Shaw
Insurance Commissioner

RGS:amp
Enclosures

STATE OF WEST VIRGINIA



OFFICES OF THE
INSURANCE COMMISSIONER

2100 WASHINGTON STREET, EAST
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TELEPHONE (304) 348-3386

RICHARD G. SHAW
INSURANCE COMMISSIONER

JOHN D. ROCKEFELLER, IV
GOVERNOR

November 1, 1983

Legislative Rule-Making Review Committee
c/o Legislative Services
E-132
State Capitol
Charleston, WV 25305

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 11/1/83
Administrative Law Division

Re: Submission of Legislative Rule of the
Insurance Commissioner (Emergency),
Series XVIII, Supplemental Insurance
Coverage for Continuum of Care Services

Dear Committee Members:

Pursuant to the provisions of West Virginia Code § 29A-3-15, enclosed please find fifteen (15) copies of the above-noted emergency legislative rule as filed in the Office of the Secretary of State on November 1, 1983. This letter constitutes the statement of emergency in support of such rule.

This emergency rule supercedes and replaces the previous emergency rule of the same series number which became effective on May 10, 1983. The decision to issue a second emergency rule was based upon a number of considerations. West Virginia's continuum of care statute (Chapter 16, Article 5D of the Code) requires cooperative development by a number of state agencies of a comprehensive program of services addressed to the physical, psychological, spiritual, social and economic needs of elderly, disabled and terminally ill citizens of West Virginia. Clearly, establishment of such a program is a tremendously complex and time-consuming endeavor. The Insurance Department's involvement in that process centers around § 16-5D-10 which provides in toto that "[n]ot later than the first day of July, one thousand nine hundred eighty three, every insurance carrier who shall offer for sale in this State any policy of health or accident and sickness insurance, shall make available

at a reasonable rate supplemental insurance coverage for continuum of care services." The continuum of care statute became effective on July 10, 1982, and the Continuum of Care Board subsequently began meeting regularly. As a consequence of the complex nature of the program which the Board was charged with establishing, however, no standards for continuum of care services were developed as of July 1, 1983. The Board's task was complicated by the fact that no other state had a similar program from which guidance could be drawn. Nevertheless, in compliance with the provisions of § 16-5D-10, the Insurance Commissioner issued an emergency rule which required all accident and sickness insurers licensed in West Virginia to make available supplemental coverage for continuum of care services as of July 1, 1983. The anomaly of the situation is clear -- insurers were required to offer coverage for a program which did not exist. Standards for the continuum of care program remain non-existent. In fact, the statute does not require the Board to develop even a feasibility study of hospice care services, merely one element of the continuum of care program, until July 1, 1984.

In view of the above, it was determined that implementation of a permanent rule was simply not practicable. A permanent rule promulgated at this time would require massive revision once the standards for the continuum of care program are developed. Instead, the Insurance Commissioner will recommend to the 1984 session of the Legislature that the date of implementation of the insurance provisions of § 16-5D-10 be amended to a time at which standards for the continuum of care program have been established by the Board.

The emergency rule submitted today is essentially the same as the previous emergency rule with the following three exceptions: (1) the exemptions of § 2.02 have been broadened; (2) the reference to group insurance in the first paragraph of § 3.01 has been clarified; and, (3) the retroactivity provision of the second paragraph of § 3.01 has been eliminated. All are changes which were suggested during a public hearing on July 13, 1983; and are unrelated to the basic benefit standards which must be established by the Continuum of Care Board.

Please contact me if you have questions concerning this matter.

Sincerely,



Richard G. Shaw,
Insurance Commissioner

RGS:amp
Enclosures

EMERGENCY

SUPPLEMENTAL INSURANCE COVERAGE FOR CONTINUUM OF CARE SERVICES

Chapter 16-5D
Series XVIII

1984

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1984 OCT 18 PM 3:30

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EMERGENCY

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER OF WEST VIRGINIA

Chapter 16-5D
Series XVIII
(1984)

Subject: Regulation Relating to Supplemental Insurance Coverage
for Continuum of Care Services for Elderly, Disabled
and Terminally Ill

Section 1. General

1.01. Scope - This emergency legislative rule establishes standards for supplemental insurance coverage for continuum of care services for elderly, disabled and terminally ill citizens of the State of West Virginia.

1.02. Authority - This emergency legislative rule was promulgated under the Authority of Chapter 16, Article 5D, Section 9 and 10 and Chapter 33, Article 2, Section 10 of the Code of West Virginia of 1931, as amended.

1.03. Filing Date - This emergency legislative rule was promulgated on the 18th day of October, 1984, and was filed on the 18th day of October, 1984, in the Office of the Secretary of State.

1.04. Effective Date - This emergency legislative rule becomes effective on the 18th day of October, 1984, and supercedes and replaces the emergency legislative rule of the same series number which became effective on the 26th day of April, 1984.

Section 2. Applicability

2.01. Policies, Contracts and Certificates Included -

Except as provided in Section 2.02, this regulation shall apply to all insurance policies, contracts or certificates delivered or issued for delivery in West Virginia pursuant to the provisions of Chapter 33, Articles 15, 16, 16A, 23, 24, 25 and 25A of the Code of West Virginia of 1931, as amended.

2.02. Policies, Contracts and Certificates Excluded -

This regulation shall not apply to any insurance policy, contract or certificate which provides coverages solely for disability loss of income, dental services, optical services, hospital confinement indemnity, accident-only, short-term accident and sickness with a coverage period of ninety days or less, specified disease and prescription drug services.

Section 3. Coverage Requirements Services

3.01. Availability - Any insurance policy, contract or

certificates specified in Section 2.01 of this regulation which is delivered or issued for delivery in West Virginia on or after the first day of July, 1983, shall make available to the policyholder, subscriber or certificateholder supplemental insurance coverage for continuum of care services consistent with the provisions of this regulation; provided, however, that any such policy, contract or certificate delivered or issued for delivery in West Virginia on a group basis shall make such coverage available if so elected by the group policyholder.

3.02. Minimum Benefit Standards - Supplemental insurance coverage for continuum of care services shall include the following minimum benefits:

(A) Benefits for services determined to be necessary and appropriate by the case manager or responsible member of the comprehensive hospice care program, in accordance with the case management system or comprehensive hospice care program established by the West Virginia Continuum of Care Board pursuant to the provisions of Chapter 16, Article 5D of the Code of West Virginia of 1931, as amended.

(1) Counseling benefits in general for the policyholder, subscriber or certificateholder and his immediate family, including his spouse, children, parents, siblings and children of his spouse, may be limited to a maximum of twelve sessions collectively at a total benefit payment not to exceed one thousand dollars (\$1,000.00) during each twelve (12) month period.

(1) There shall be no requirement that any immediate family member be a named insured under the policy, contract or certificate as a pre-

requisite to receipt of counseling benefits.

(11) There shall be no deductible or coinsurance requirement in regard to the counseling benefits either for the policyholder, subscriber or certificateholder or his immediate family members.

(b) Bereavement counseling benefits for immediate family members of the policyholder, subscriber or certificateholder, including his spouse, children, parents, siblings and children of his spouse, may be limited to a maximum of eight (8) sessions collectively at a total benefit payment not to exceed seven hundred and fifty dollars (\$750.00) during a six (6) month-period commencing within 6 months subsequent to the death of the policyholder, subscriber or certificateholder.

(1) There shall be no requirement that any immediate family member be a named insured under the insurance policy, contract or certificate as

a prerequisite to receipt of counseling benefits.

(ii) There shall be no deductible or co-insurance requirement in regard to the counseling benefits either for the policyholder, subscriber or certificateholder or his immediate family members.

(b) Bereavement counseling benefits for immediate family members of the policyholder, subscriber or certificateholder, including his spouse, children, parents, siblings and children of his spouse, may be limited to a maximum of eight (8) sessions collectively at a total benefit payment not to exceed seven hundred and fifty dollars (\$750.00) during a six (6) month-period commencing within 6 months subsequent to the death of the policyholder, subscriber or certificateholder.

(1) There shall be no requirement that any immediate family member be a named insured under the insurance policy, contract or certificate as a prerequisite to receipt of

bereavement counseling benefits.

(ii) Bereavement counseling benefits shall not be denied immediate family members on the basis that the insurance policy, contract or certificate terminated upon or following the death of the policyholder, subscriber or certificateholder nor shall a premium be assessed of an immediate family member in regard to bereavement counseling benefits.

(iii) There shall be no deductible or coinsurance requirement in regard to bereavement counselings benefits.

(2) There shall be no provisions in the supplemental insurance policy, contract or certificate which limits coverage for continuum of care services to medical care or in any manner attempts to exclude coverage for palliative or supportive care.

(B) Benefit payments for continuum of care services under a supplemental insurance policy, contract or certificate shall not preclude or be in lieu of

hospital or medical/surgical benefit payments under the basic policy, contract or certificate. Provided, however, that duplicative payment for a specific expense shall not be required.

Section 4. Approval of Forms

4.01. Approval of Forms - No rider, endorsement or other form to be attached to any insurance policy, contract or certificate to provide benefits for continuum of care services shall be delivered or issued for delivery in West Virginia unless it has been filed with and approved by the Insurance Commissioner of the State of West Virginia pursuant to the provisions of Chapter 33, Article 6, Section 8 of the Code of West Virginia of 1931, as amended.

Section 5. Loss Ratio Standards

5.01. Aggregate Benefits - Supplemental insurance coverages for continuum of care services shall be expected to return to policyholders, subscribers or certificateholders in the form of aggregate benefits, on the basis of incurred claims experience and earned premiums:

(A) In the case of individual insurance policies, contracts or certificates, at least sixty percent (60%) of the aggregate amount of premium collected; and,

(B) In the case of group insurance policies, contracts or certificates, at least seventy-five percent (75%) of the aggregate amount of premiums collected.

Section 6. Separability

6.01. Partial Invalidity - If any provision of this regulation is held invalid, the remainder of the regulation shall not be affected thereby.

STATE OF WEST VIRGINIA



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DEPT. OF STATE
SECRETARY OF STATE



FRED E. WRIGHT
INSURANCE COMMISSIONER

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INSURANCE COMMISSIONER
LEGAL DIVISION
2100 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305
TELEPHONE (304) 348-3394

ARCH A. MOORE, JR.
GOVERNOR

July 11, 1985

Mr. Rich O. Hartman
Director, Administrative Law Division
Secretary of State's Office
State Capitol
Charleston, WV 25305

Re: Emergency Legislative Rule Of The Insurance Commissioner,
Series XVIII, Supplemental Insurance Coverage For
Continuum Of Care Services

Dear Mr. Hartman:

Please be advised that this Office wishes to withdraw
the above-noted emergency rule.

This withdrawal is a consequence of 1985 Senate Bill
No. 213 which obviates the need for such an emergency
regulation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl L. Davis".

Cheryl L. Davis
General Counsel

CLD/pss

cc: Legislative Rule Making Review Committee

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