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Notice of Agency Approval and Adoption 49

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
Emergency Legislative Rule: Supplemental Insurance Coverage
For Continuum of Care Services

The above titled emergency legislative rule constitutes the official rule approved and adopted by the Insurance Commissioner on the 15th day of April, 1985 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.



Fred E. Wright
Insurance Commissioner of the
State of West Virginia

Entered

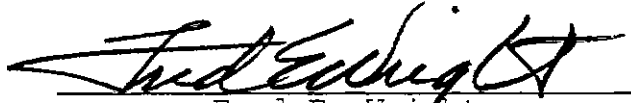
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Notice

1965 APR 15 AM 9:50

Emergency Legislative Rule: Supplemental Insurance Coverage
For Continuation of Care Services

The above titled emergency legislative rule is hereby submitted to the Legislative Rule-Making Review Committee.



Fred E. Wright
Insurance Commissioner of the
State of West Virginia

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STATEMENT OF EMERGENCY

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1985 APR 15 AM 9:50

Emergency Legislative Rule: Supplemental Insurance Coverage
For Continuum of Care Services

This constitutes the statement of the facts and circumstances which constitute an emergency in regard to the filing of the above-noted legislative rule.

West Virginia Code §16-5D-10 provides 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 for purchase at a reasonable rate supplemental insurance coverage for continuum of care services." Pursuant to this Code section, the Insurance Commissioner has issued several emergency rules which establish the standards for supplemental insurance coverage for continuum of care services. The 1985 session of the West Virginia Legislature amended the implementation date of the insurance provisions of West Virginia Code §16-5D-10 to July 1, 1986. This bill has not yet been signed by the Governor, however I anticipate that it will be signed. The problem arises in that the effective date of the bill is ninety (90) days from passage. The Department's present emergency rule will expire prior to the effective date of the legislation (Senate Bill No. 213). Therefore, in order to comply with the existing provisions of §16-5D-10, promulgation of an emergency rule is necessary. The provisions of the emergency rule will become null and void upon the effective date of Senate Bill No. 213.



Fred E. Wright
Insurance Commissioner of the
State of West Virginia

Entered

EMERGENCY RULE ANALYSIS

Agency: Insurance Commissioner

Rule: Supplemental Insurance Coverage for Continuum of Care Services; Chapter 16-5D, Series XVIII (1984)

This rule establishes standards for supplemental insurance coverage for continuum of care services for elderly, disabled and terminally ill persons.

The continuum of care services was established in 1982 within Code 16-5D. Regulatory authority was vested in a Continuum of Care Board consisting of the directors of health, human services, commission on aging, insurance and vocational rehabilitation. As of this date, no rules have been promulgated by this Board although rules are required by statute. The Insurance Commissioner under his own authority found in Code 33-2-10 has filed these rules as a part of the requirements dictated to the Board. There is no indication the Board has signed off on these rules. Because of this it is questionable if the Insurance Commissioner, as one member of the Continuum of Care Board, can issue rules binding the entire Board.

These rules were filed on an emergency basis by the Insurance Commission on May 10, 1983. With some changes it was refiled as an emergency rule on November 1, 1983. With no changes it was again refiled as an emergency rule on April 26, 1984. With no changes it was again refiled as an emergency rule on October 25, 1984. At no time was a notice of hearing filed for a public hearing by the Insurance Commissioner or the Continuum of Care Board. The validity of the effective periods as an emergency rule is highly questionable.

Staff Comments

Staff recommends the committee not accept this filing for two reasons:

1. Questionable authority.

2. Failure to follow emergency rule procedures. Staff also recommends the committee request from the Continuum of Care Board a report on why no rules have been promulgated or proposed for hearing since its creation in June 1982.

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EMERGENCY

1985 APR 15 AM 9:49

SUPPLEMENTAL INSURANCE COVERAGE FOR CONTINUUM OF CARE SERVICES

OFFICE OF THE SECRETARY OF STATE

Chapter 16-5D

Series XVIII

1985

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EMERGENCY

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER OF WEST VIRGINIA

Chapter 16-5D
Series XVIII
(1985)

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 15th day of April, 1985, and was filed on the 15th day of April, 1985 in the Office of the Secretary of State.

1.04. Effective Date - This emergency legislative rule becomes effective on the 15th day of April, 1985, and supercedes and replaces the emergency legislative rule of the same series number which became effective on the 18th day of October, 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.

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

- (ii) 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.
- (2) 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 with six (6) months subsequent to the death of the policyholder, subscriber and certificateholder.
 - (i) 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.

(3) 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.

(i) 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 counseling benefits.

(4) 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 cover-
ages 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 (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.