

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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DEC 16 11 21 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Health TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code §16-33-8

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

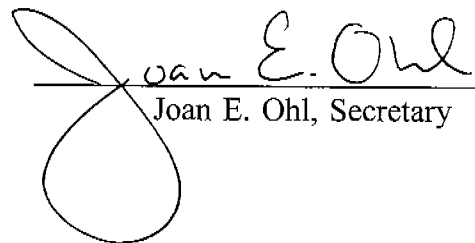
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 69

TITLE OF RULE BEING PROPOSED: Breast and Cervical Cancer Treatment Fund

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Joan E. Ohl, Secretary

\$2.80

PROPOSED RULE

WEST VIRGINIA DIVISION OF HEALTH LEGISLATIVE RULE

TITLE 64, SERIES 69

BREAST AND CERVICAL CANCER TREATMENT FUND

199_

Modified Rule

PROPOSED RULE
WEST VIRGINIA DIVISION OF HEALTH LEGISLATIVE RULE
SERIES 69
BREAST AND CERVICAL CANCER TREATMENT FUND

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PROPOSED RULE
WEST VIRGINIA DIVISION OF HEALTH LEGISLATIVE RULE
SERIES 69
BREAST AND CERVICAL CANCER TREATMENT FUND

OFFICE OF THE
SECRETARY OF STATE

Dec 16 11 22 AM '97

FILED

§ 64-69-1. General.

1.1. Scope. -- This rule establishes the procedures and the process for providing financial assistance to medically and financially eligible patients for certain diagnostic and treatment services for breast cancer, cervical cancer or precancerous cervical lesions. Funds appropriated by the Legislature, any funds allocated by the federal government, and any other sums designated for deposit in the fund from any other public or private source for medical assistance are to be distributed from the breast and cervical cancer diagnostic and treatment fund established by the State Legislature. In selecting services to be covered, the advisory committee has attempted to maximize the coverage of early diagnostic and treatments procedures in order to maximize the efficient use of funds. The advisory committee believes that in many instances if more extensive procedures are needed in later stages of diagnosis and treatment, patients are likely to qualify for coverage under Medicaid.

1.2. Authority. -- W.Va. Code § 16-33-8.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Applicability. -- This rule applies to providers of, applicants for, and recipients of breast and cervical cancer diagnostic and treatment services.

1.6. Enforcement. -- This rule is administered by the office of maternal and child health within the bureau of public health¹ of the department of health and human resources.

§ 64-69-2. Definitions.

2.1. Advisory Committee. -- The medical advisory committee to the breast and cervical cancer detection and education program coalition.

2.2. Approved Procedure. -- A medical procedure that has been selected by the medical advisory committee to be paid for by the fund.

2.3. Bureau. -- The state bureau for public health of the department of health and human

¹ The Department of Health and Human Resources (DHHR) was created by the Legislature's reorganization of the executive branch of State government in 1989. The Department of Public Health was renamed the Division of Health and made a part of the DHHR (W. Va. Code § 5F-1-1 et seq.). Administratively within the DHHR the Bureau for Public Health through its Commissioner carries out the public health function of the Division of Health.

resources.

2.4. Federal Poverty Level. -- The prevailing national poverty income guidelines established by the federal government and published in the Federal Register.

2.5. Fund. -- The breast and cervical cancer diagnostic and treatment fund.

2.6. Provider. -- A physician, hospital or laboratory currently licensed and operating or practicing in this state.

§ 64-69-3. Confidentiality.

3.1. No person who obtains information protected by the provisions of W. Va. Code § 16-5A-2a and this rule may disclose confidential information to any other person except in strict compliance with W. Va. Code § 16-5A-2a, this rule and any other applicable federal or state law, rule or regulation.

3.2. Any person who obtains information protected by the provisions of W. Va. § Code 16-5A-2a and this rule shall sign a statement that he or she fully understands those provisions and will maintain the confidentiality of the information.

§ 64-69-4. Eligibility.

4.1. To be eligible financially for services under the fund, a patient's income shall be at or below two hundred percent (200%) of the federal poverty level. No patient who is covered by medical insurance, Medicaid or Medicare is financially eligible for participation in the fund.

4.2. To be eligible medically for diagnostic services under the fund, a patient shall have a condition strongly suspicious of cancer which requires diagnostic services to confirm the preliminary diagnosis. The bureau shall authorize only those services determined by the advisory committee as established in this rule to be medically necessary to confirm a preliminary diagnosis.

4.3. To be eligible medically for treatment services under the fund, the patient shall have a positive pathology report.

§ 64-69-5. Procedures Covered.

5.1. Breast cancer related procedures covered by the fund include, but are not limited to:

- 5.1.a. Breast biopsy-needle core;
- 5.1.b. Breast biopsy-incisional;
- 5.1.c. Breast biopsy-excisional;
- 5.1.d. Breast biopsy-identified by radiological marker;

- 5.1.d.1. Each additional lesion;
 - 5.1.e. Pre-op placement of needle localization wire;
 - 5.1.f. Breast biopsy-stereotactic localization;
 - 5.1.g. Needle localization-radiologic supervision/interpretation;
 - 5.1.h. Radiological examination, surgical specimen;
 - 5.1.i. Ultrasound guided biopsy;
 - 5.1.j. Lab-needle biopsy;
 - 5.1.k. Lab-surgical pathology breast tissue biopsy;
 - 5.1.l. Stereotactic biopsy supplies;
 - 5.1.m. Follow-up after procedure-outpatient;
 - 5.1.n. Follow-up consultation-post-op outpatient; and
 - 5.1.o. General anesthesia.
- 5.2. Cervical cancer related procedures covered by the fund include, but are not limited to:
- 5.2.a. Loop electrode excision procedure;
 - 5.2.b. Biopsy or local excision of lesion;
 - 5.2.c. Endocervical curettage;
 - 5.2.d. Cryocautery of the cervix;
 - 5.2.e. Laser surgery of the cervix;
 - 5.2.f. Conization of the cervix;
 - 5.2.g. Dilation and curettage-diagnostic and/or therapeutic;
 - 5.2.h. Lab-cervical biopsy;
 - 5.2.i. Follow-up after procedure-outpatient; and
 - 5.2.j. General anesthesia.

§ 64-69-6. Review and Authorization.

6.1. The medical advisory committee shall entrust the day to day review and authorization for payment as authorized by this rule to the director of the breast and cervical cancer screening program of the office of office of maternal and child health within the bureau.

§ 64-69-7. Application and Process.

7.1. The provider shall apply for and receive reimbursement from the fund on behalf of the patient. The provider shall:

7.1.a. Refer to the list of covered procedures set forth in Section 5 of this rule, and may, if needed, consult with the director of the breast and cervical cancer screening program to determine if the procedure to be performed is covered;

7.1.b. Complete the fund application form approved by and available from the division and submit it to the director of the breast and cervical cancer screening program for approval, except as specified in subsection 7.2 of this rule;

7.1.c. Provide the services; and

7.1.d. Submit an invoice to the director of the breast and cervical cancer screening program listing procedures and CPT codes, accompanied by a pathology report when appropriate, within ninety (90) days of the date the service was provided.

7.2. The provider shall complete only the medical eligibility section of the application for patients who have already been screened and determined to meet the financial eligibility criteria through the breast and cervical cancer screening program.

7.3. The division shall use the current rate established by Medicare to determine the amount of payment.

7.4. Providers performing procedures to be covered by the fund shall accept the Medicare-determined payment amount as full payment.

§64-69-8. Administrative Due Process. -- Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so as prescribed in the division of health's administrative rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.



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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

November 5, 1997

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Kay Howard, Director
Regulatory Development
DH&HR - Division of Health
Building 3 - State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: *Breast & Cervical Cancer Diagnostic & Treatment Fund (64CSR69)*

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.