

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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1989 JUN 22 PM 2:40
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia Health Care Cost Review Authority TITLE NUMBER: 65

RULE TYPE: Legislative; CITE AUTHORITY 16-29B-20(k)

AMENDMENT TO AN EXISTING RULE: YES___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 14

TITLE OF RULE BEING PROPOSED: Expedited Review For Rate Changes

DATE OF PUBLIC HEARING: August 1, 1989 TIME: 10:00 a.m.

LOCATION OF PUBLIC HEARING: HCCRA - Large Conference Room

100 Dee Drive, Suite 201

Charleston, WV 25311

COMMENTS LIMITED TO: ORAL___, WRITTEN___, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Health
Care Cost Review Authority
ATTN: Mariamne K. Stonestreet
100 Dee Drive, Suite 201

Charleston, WV 25311

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


LARRY C. FIZER, Chairman

APPENDIX B

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1030 JUN 22 PM 2:41

FISCAL NOTE FOR PROPOSED RULES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Rule Title: Expedited Review For Rate Changes

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Health Care Address 100 Dee Drive, Suite 201
Cost Review Authority Charleston, WV 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 25,000	\$ 0	\$ 25,000	\$ 25,000	\$ 25,000
Personal Services	25,000	0	25,000	25,000	25,000
Current Expense	-	-	-	-	-
Repairs and Alterations	-	-	-	-	-
Equipment	-	-	-	-	-
Other	-	-	-	-	-

2. Explanation of above estimates. The estimate is based on additional staff needed to process this new rate request procedure. Estimate includes average salaries for one FTE for secretarial purposes and 1/2 FTE for a rate review analyst.

3. Objectives of these rules: To implement an expedited rate review process for hospitals licensed for more than 100 beds or that are located in a Standard Metropolitan Statistical Area as mandated by W. Va. Code 16-29B-20(k).

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None. The agency is funded with money collected from the hospitals for annual assessments and filing fees. No general revenue funds are appropriated or expended by this agency.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

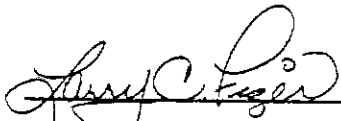
Hospitals affected by this rule may experience a slight increase in expenses associated with completing this new application. However, they are already familiar with the standard application and the new expedited form is a shortened version, therefore the expense should be minimal.

C. Economic Impact on Citizens/Public at Large.

The citizens/public will benefit in that larger hospitals and those located in Standard Metropolitan Areas will no longer be entitled to an automatic rate of inflation rate increase.

Date 6/22/89

Signature of Agency Head or Authorized Representative



LARRY C. FLZER, Chairman

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Health Care Cost Review Authority

EMERGENCY RULE TITLE: Expedited Review For Rate Changes

1. Date of filing: June 22, 1989
2. Statutory authority for promulgating the emergency rule: W. Va. Code 16-29B-20(k)
3. Date of filing of proposed legislative rule: June 22, 1989

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

No

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

W. Va. Code 16-29B-20(k) requires HCCRA to implement emergency rules by July 7, 1988 to develop an expedited review process applicable to hospitals licensed for more than 100 beds or that are located in a Standard Metropolitan Area. The effect of this rule is to reduce hospital rate increases and to discontinue automatic rate increases permitted under the previous law.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

W. Va. Code 16-29B-20(k) is part of the Omnibus Health Care Act enacted
by the Legislature. Said Code section requires HCCRA to adopt emergency
regulations by July 7, 1989.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See response to No. 6.

SUMMARY OF PROPOSED RULE

The proposed legislative rule implements certain requirements of the Omnibus Health Care Act, West Virginia Code 16-29B-20(k). The rule develops an expedited review process for rate increase requests for hospitals licensed for more than one hundred (100) beds or that are located in a Standard Metropolitan Statistical Area.

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OFFICE OF THE REGISTER
SECRETARY OF STATE

TITLE 65
WEST VIRGINIA LEGISLATIVE RULE
HEALTH CARE COST REVIEW AUTHORITY

SERIES 14

FILED

1989 JUN 22 PM 2:41

DEPT. OF WEST VIRGINIA
SECRETARY OF STATE

Title: Expedited Review For Rate Changes

S65-14-1 General

1.1. Scope - This legislative rule establishes an expedited review process for hospitals licensed for more than one hundred (100) beds or that are located in a Standard Metropolitan Statistical Area for rate increase requests as provided by the 1989 amendments to W. Va. Code 16-29B-20(k).

1.2. Authority - W. Va. Code 16-29B-20(k).

1.3. Filing Date - _____.

1.4. Effective Date - _____.

S65-14-2 Introduction

This legislative rule implements certain of the provisions of Enrolled Committee Substitute for Committee Substitute for Senate Bill 576 which was signed by the Governor. That bill amended W. Va. Code 16-29B-20 by adding a

new subsection. This new subsection authorizes the state agency to promulgate rules to develop an expedited review process for rate increase requests from hospitals licensed for more than one hundred (100) beds or that are located in a Standard Metropolitan Statistical Area.

§65-14-3 Definitions

As used in this rule, all terms have the same meaning as provided in the definition section of the Health Care Cost Review Authority Act, West Virginia Code, section three, article twenty-nine-b, chapter sixteen. Definitions of additional terms are set forth below and whenever those terms are used, the following definitions apply, except where the context may expressly otherwise require.

3.1. "Authority" means the West Virginia Health Care Cost Review Authority.

3.2. "DRI" refers to the inflation index for the hospital industry published by Data Resources.

3.3. "Gross Revenue" means a hospital's gross patient revenue plus all operating and nonoperating revenues from whatever source.

3.4. "Hospital" means:

3.4.1. A facility subject to licensure as such under the provisions of West Virginia Code, article five-b, chapter sixteen; or

3.4.2. Any acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons; but, in either event, does not include state mental health facilities, facilities primarily engaged in rendering psychiatric diagnosis, treatment and care or state long-term care facilities.

3.5. "License" means the license issued by the state department of health pursuant to West Virginia Code, article five-b, chapter sixteen. The license is issued for a particular number by type of beds and/or type or services. The total number of beds specified on the license shall determine the licensed bed capacity of the hospital.

3.6. "Standard Metropolitan Statistical Area" means metropolitan statistical area (MSA) as designated by the U.S. Office of Management and Budget and the Federal Committee on Metropolitan Statistical Areas. An MSA is a geographical designation that represents an integrated social and economic unit with a large population nucleus. An area qualifies for recognition as an MSA

if there is a city within the area of at least 50,000 population or an urban area of at least 50,000 with a total metropolitan population of at least 100,000.

§65-14-4 Expedited Review

Any hospital which is licensed for more than one hundred (100) beds or that is located in a Standard Metropolitan Statistical Area which wishes to change or amend any portion of its previously approved schedule of rates in an amount equal to or less than the rate of inflation as published by Data Resources shall do so in accordance with this rule.

4.1. Application, license and budget - The hospital shall file an application with the Authority at least forty-five (45) days prior to the beginning of its fiscal year on a form to be provided by the Authority. The application submitted by the hospital shall include the following: the hospital's inpatient and outpatient utilization for the previous fiscal year, the current fiscal year and the projected inpatient and outpatient utilization for the fiscal year affected by the increase; the amount of gross inpatient and outpatient revenue received by the hospital during the previous fiscal year, the current fiscal year and the projected amount of gross inpatient and outpatient revenue for the year affected by the increase; the amount of contractual allowances, uncollectable accounts, charity care, operating expenses, other operating revenue, non-operating revenue interest, non-operating revenue gifts, and non-operating revenue other for the

previous fiscal year, the current fiscal year and the projected amount for the fiscal year affected by the increase. The hospital shall submit with its application a copy of its current license issued by the state director of health pursuant to West Virginia Code 16-5B-1 et seq. The hospital shall also submit with its application a copy of the budget approved by the hospital's board for the fiscal year affected by the increase. The budget must contain all usual information under generally accepted accounting principles for a budget and a full and specific statement of all assumptions relied upon in preparing the budget. The application shall include a certification by the chief executive officer and the chairman of the board of the hospital that the information contained therein is true and accurate.

4.2. Eligibility standards - Upon receipt of the application, license and budget, the Authority shall determine: (1) if a minimum of 365 days have elapsed since the hospital has placed into effect its last rate increase. Temporary changes in a hospital's rates made pursuant to W. Va. Code 16-29B-21(b) are excluded from this requirement; and, (2) if the hospital has provided charity care equal to or greater than the state average for the previous fiscal year. Charity care shall not include bad debt. The Authority shall also review any or all of the following revenue limits to determine if the hospital has experienced an excess in these categories: (1) gross revenue, (2) gross patient revenue, (3) gross inpatient revenue, (4) charges per discharge; and, (5) gross outpatient revenue. No hospital will be determined ineligible to request an

expedited rate increase pursuant to this rule if the data submitted indicates an excess in gross outpatient revenue.

If the Authority determines the hospital has met these standards the hospital is eligible to request an expedited rate increase pursuant to this rule. If the hospital fails to meet these standards, the hospital may not request a rate increase pursuant to this rule.

4.3. Rate of inflation - The hospital shall determine the applicable rate of inflation for the hospital industry by referring to the most recent publication of Data Resources. The hospital may request the Authority to provide it with the current Data Resources Index (DRI) prior to filing the application required by section 4.1 of this rule. The DRI shall be applicable for sixty (60) days from the date of the letter from the Authority notifying the hospital of said figure. The rate of inflation so reported shall not be adjusted for the increasing costs of technology, nonsupervisory wages, malpractice premiums, new services, or any other reason.

4.4 Hearings - Upon receipt of a complete application, license and budget, the board, in its discretion, may hold a public hearing. Such hearing shall be held no later than forty-five (45) days after receipt of the complete application, license and budget. The hospital or an interested party may request a hearing which request may, in the discretion of the board, be granted. The hearing shall be conducted pursuant to 65 C.S.R. 3, section 4.3.

4.5. Review by the board - Unless a hearing is held pursuant to 4.4 of this rule, the board shall issue a decision approving or disapproving the increase requested by the hospital within forty-five (45) days of receipt of the hospital's complete application, license and budget. This forty-five (45) day period shall not begin until the Authority receives from the hospital all the information required pursuant to this rule for a complete application including the license and budget. Within 45 days of receipt by the hospital of this order, the hospital shall file with the board a revised budget and a schedule of rates, each of which shall be drafted in accordance with the revenue limits set by the board. Thereafter, the board shall issue an order setting final revenue limits, the hospital's budget and schedule of rates. The order shall specify the effective date of any increase. The hospital is prohibited from implementing the rate increase until the date specified in the order. The order shall be sent by certified mail, return receipt requested, to the hospital. An appeal or reconsideration of a final order entered pursuant to this subsection (4.5) may be requested by the hospital or an interested party pursuant to 65 C.S.R. 3, section 4.5 and 4.8.

4.6. Notice to the community - Contemporaneously with the filing of the application, license and budget pursuant to section 4.1 of this rule, the hospital shall also cause to be published in a newspaper of general circulation in the county in which the hospital is located a legal advertisement setting forth the fact that the hospital is applying to the board for a change or amendment to

its schedule of rates. The legal advertisement shall summarize the effect of the requested relief and shall further state that any person desiring to inspect the application and budget may do so at the hospital during the hospital's regular business hours and also at the offices of the board. Also, the legal advertisement shall advise the public that any person or entity who claims to be an interested party in the proceedings for the changing or amending of the schedule of rates must file with the Authority a written notice setting forth the interested parties' names, address and the facts relied upon to establish his or her interest. The legal advertisement must inform the public that interested parties must file this notice within ten (10) days of the hospital's filing of its application with the Authority or else the Authority will, except for good cause shown, deny the interested party's notice. The Authority will then send notices of all proceedings and copies of all orders to those parties deemed to be interested in the matter. Proof of publication of the legal advertisement by the hospital must be submitted to the Authority within ten (10) days of the filing of its application, license and budget.

4.7. If the board subsequently determines that the increase requested by the hospital actually exceeded the rate of inflation as published by Data Resources, for whatever reason, the board may institute a review and investigation of the hospital's rates and budget and take such action as it deems necessary to establish a new rate schedule and also direct a refund to the hospital's patients or a temporary decrease in the hospital's rates if any of such

HCCRA
Leg. Rule, 165F
Series 14, Sec. 4

should prove necessary. The decision resulting from any such review and investigation may be treated as a final order and an appeal or reconsideration may be requested by the hospital or an interested party pursuant to 65 C.S.R. 3, sections 4.5 and 4.8.

4.8. This rule also applies to any hospital which seeks to increase or decrease its outpatient revenue or its nonpatient revenues from nonmedicare or nonmedicaid sources. In addition, if the hospital experiences less inpatient utilization for the twelve (12) months following the increase than it had anticipated when the expedited rate of inflation increase was obtained, the hospital's average rate per discharge shall not later be increased to compensate for the decline in gross inpatient revenue without permission of the board.

4.9. The board will continue to monitor the hospital's compliance with the board's prior orders. Should such monitoring reveal that the hospital exceeded its prior revenue limits, then the board will take corrective action against the hospital as a result of that excess and will also take corrective action against the rates being charged by the hospital after any expedited rate of inflation increase.