

WEST VIRGINIA
SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: WV Health Care Cost Review Authority TITLE NUMBER: 65

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: 14

TITLE OF RULE BEING PROPOSED: Expedited Review For Rate Changes


THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 243

SECTION 64-5-3(h), PASSED ON March 10, 1990

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: April 5, 1990


LARRY C. FIZER
CHAIRMAN

TITLE 65
WEST VIRGINIA LEGISLATIVE RULE
HEALTH CARE COST REVIEW AUTHORITY

SERIES 14

Title: EXPEDITED REVIEW FOR RATE CHANGES

§65-14-1 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 - _____.

§65-14-2 Introduction

This legislative rule implements certain of the provisions of Enrolled Committee Substitute for Committee Substitute for Senate Bill 576 which became effective on April 8, 1989, and was signed by the Governor. That bill

amended W. Va. Code 16-29B-20 by adding a new subsection. This new subsection (k) authorizes the Authority 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/McGraw-Hill.

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, does not include state owned or operated mental health facilities, state owned or operated long-term care facilities, or speciality hospitals such as acute care psychiatric and rehabilitation hospitals.

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 of beds by type of beds and/or type or services. The total number of beds specified on the license including non-acute beds shall determine the licensed bed capacity of the hospital.

3.6. "Standard Metropolitan Statistical Area" means a 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/McGraw Hill 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 in its current fiscal year has provided charity care equal to or greater than the most recent state average as published by the Authority. Charity care shall be determined in accordance with the guidelines contained in the Hospital Cost Containment Methodology - Phase I, Sections 3.4.9.1, 3.4.9.1a, 3.4.9.1b, 3.4.9.1c and 3.4.9.1d (65 C.S.R. 5) and 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 or an excess in gross revenue or gross patient revenue if the excess is directly attributable to the 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 shall 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/McGraw-Hill. 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 section 4.4 of this rule, the board shall issue an order 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 a second order setting final revenue limits, the hospital's budget and schedule of rates. The initial order shall specify the effective date of any increase and the hospital is prohibited from implementing any rate increase until the date specified in the initial order. All orders shall be sent by certified mail, return receipt requested, to the hospital. An appeal or reconsideration of an order entered pursuant to this section (4.5)

may be requested by the hospital or an interested party pursuant to 65 C.S.R. 3, sections 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 determines after a final order is issued that the increase requested by the hospital actually exceeded the rate of inflation as published by Data Resources/McGraw-Hill, 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 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.

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Series 14, Sec. 4

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 shall take corrective action against the hospital as a result of that excess and shall also take corrective action against the rates being charged by the hospital after any expedited rate of inflation increase.