

TITLE 65
WEST VIRGINIA LEGISLATIVE RULE
HEALTH CARE COST REVIEW AUTHORITY

SERIES 17

Title: HEALTH SERVICES OFFERED BY HEALTH PROFESSIONALS

§65-17-1 General

1.1. Scope - This legislative rule specifies which health services, major medical equipment, and/or facilities acquired, offered or developed by health professionals are subject to certificate of need review.

1.2. Authority - W. Va. Code, §16-2D-4(a)(1), §16-2D-8.

1.3. Filing Date - _____.

1.4. Effective Date - _____.

~~§65-17-2 Introduction~~

~~This legislative rule implements certain provisions of Enrolled House Bill 4230 which was passed by the Legislature on March 10, 1990, and became effective ninety (90) days from passage. This bill amended W. Va. Code, §16-~~

~~2D-2(b), (c) and §16-2D-4(a)(1) by adding language which requires certificate of need review of the acquisition, offering or development of certain health services by health professionals. This bill authorizes the state agency to adopt rules to implement this requirement.~~

§65-17-~~32~~ Definitions

As used in this legislative rule, all terms that are defined in W. Va. Code, §16-2D-1 et seq. have those same meanings which are in some cases further clarified herein. All terms not defined in W. Va. Code, §16-2D-1 et seq. have the following meanings unless the context expressly requires otherwise.

32.1. Diagnostic center - a facility which offers laboratory and/or imaging services and in which the total cost of all the laboratory and imaging equipment exceeds ~~\$750,000.00~~ \$300,000.00. In determining whether the medical equipment costs more than ~~\$750,000.00~~ \$300,000.00, the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value.

32.2. "State agency" means the West Virginia Health Care Cost Review Authority which is designated to administer the certificate of need program by West Virginia Code, §16-29B-11.

§65-17-43 Health Services, Major Medical Equipment and/or Facilities

43.1. One or more health professionals licensed to practice in this state pursuant to the provisions of Chapter 30 of the West Virginia Code who wish to acquire, offer or develop one or more of the health services, major medical equipment and/or facilities listed in subsection 43.3 of this rule shall follow the procedures set forth in the legislative rule "Certificate of Need," §65 C.S.R. 7 (1983).

43.2. If a health service, major medical equipment and/or facility is one of the ~~health services~~ set forth in subsection 43.3, the proposed acquisition, development or offering of that service, equipment and/or facility by a licensed health professional is subject to review.

43.3. The list of health services, major medical equipment and/or facilities subject to review pursuant to ~~section 4(a)(1) of the Act~~ W. Va. Code §16-2D-4(a)(1) is as

follows. This list is all inclusive and shall not be altered except by amendment to this legislative rule. ~~A health service on the list shall hereafter be referred to as a "listed health service."~~

43.3.1. Computerized tomography (CT).

43.3.2 Lithotripsy.

43.3.3. Radiation therapy.

43.3.4. Magnetic resonance imaging (MRI).

43.3.4.5. Proton emission tomography (PET).

43.3.56. Cardiac catheterization.

43.3.67. Birthing centers.

43.3.78. Ambulatory surgical facilities or ambulatory surgical centers.

43.3.89 Diagnostic centers.

4.4 ~~Application Fee~~

~~The fee to be paid by the licensed health professional(s) upon filing an application shall be the same fee paid by a health care facility for the addition of a health service as specified in W. Va. C.S.R. §65-10-3.2.10.~~

4.5. §65-17-4 Batching Category

All applications received pursuant to this rule shall be considered by the state agency in the applicable batching category seven (7) as described in ~~W. Va. § C.S.R. 65-7-16.1.~~ § 65 C.S.R. 7. Provided that, there ~~shall be~~ is no expenditure minimum requirement for the inclusion of health services, major medical equipment and/or facilities offered, acquired or developed by health professionals, ~~in batching category seven (7).~~

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Health Services Offered By Health Professionals

Type of Rule: Legislative Interpretive Procedural

Agency Health Care Cost Review Authority Address 100 Dee Dr., Suite 201
Charleston, WV 25311

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

2. Explanation of above estimates.

The agency estimates no cost associated with the implementation of this rule.

3. Objectives of these rules:

To require certificate of need review for certain health services, equipment and/or facilities offered, acquired or developed by health professionals as required by W.Va. §16-2D-4(a)(1).

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

Health professionals subject to review must pay the applicable fee for certificate of need review as required by 65 CSR 10.

C. Economic Impact on Citizens/Public at Large.

The public should benefit from the prevention of unnecessary and duplicative health services which escalate the cost of health care.

Date June 24, 1991

Signature of Agency Head or Authorized Representative



Larry C. Fizer, Chairman

2817

Bill HCCRA, Health Services 65-17

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H. B. 4287

(By ~~Delegate Crubb~~)

(Introduced January 27, 1992; referred to the
Committee on ~~Health & Human Resources then the Judiciary~~)

10 A BILL to amend and reenact section three, article five, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 health care cost review authority to promulgate legislative
14 rules relating to health services offered by health
15 professionals.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article five, chapter sixty-four of the
18 code of West Virginia, one thousand nine hundred thirty-one, as
19 amended, be amended and reenacted, to read as follows:

20 ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
21 RESOURCES TO PROMULGATE LEGISLATIVE RULES.

22 §64-5-3. Health care cost review authority.

23 (a) The legislative rules filed in the state register on the
24 twenty-first day of October, one thousand nine hundred

1 eighty-three, relating to the health care cost review authority
2 (limitation on hospital gross patient revenue), are authorized.

3 (b) The legislative rules filed in the state register on the
4 nineteenth day of December, one thousand nine hundred
5 eighty-three, relating to the health care cost review authority
6 (freeze on hospital rates and granting temporary rate increases),
7 are authorized.

8 (c) The legislative rules filed in the state register on the
9 twenty-first day of December, one thousand nine hundred
10 eighty-four, relating to the health care cost review authority
11 (implementation of the utilization review and quality assurance
12 program), are authorized.

13 (d) The legislative rules filed in the state register on the
14 fifteenth day of August, one thousand nine hundred eighty-four,
15 relating to the health care cost review authority (hospital cost
16 containment methodology), are authorized.

17 (e) The legislative rules filed in the state register on the
18 twenty-fifth day of November, one thousand nine hundred
19 eighty-five, modified by the West Virginia health care cost
20 review authority to meet the objections of the legislative
21 rule-making review committee and refiled in the state register on
22 the twenty-eighth day of January, one thousand nine hundred
23 eighty-six, relating to the West Virginia health care cost review
24 authority (interim standards for lithotripsy services), are
25 authorized.

1 (f) The legislative rules filed in the state register on the
2 third day of September, one thousand nine hundred eighty-seven,
3 modified by the West Virginia health care cost review authority
4 to meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the twenty-seventh
6 day of January, one thousand nine hundred eighty-eight, relating
7 to the West Virginia health care cost review authority
8 (exemptions from certificate of need review), are authorized.

9 (g) The legislative rules filed in the state register on the
10 nineteenth day of September, one thousand nine hundred
11 eighty-eight, modified by the health care cost review authority
12 to meet the objections of the legislative rule-making review
13 committee and refiled in the state register on the twenty-first
14 day of February, one thousand nine hundred eighty-nine, relating
15 to the health care cost review authority (financial disclosure),
16 are authorized.

17 (h) The legislative rules filed in the state register on the
18 fourteenth day of August, one thousand nine hundred eighty-nine,
19 modified by the West Virginia health care cost review authority
20 to meet the objections of the legislative rule-making review
21 committee and refiled in the state register on the fifth day of
22 December, one thousand nine hundred eighty-nine, relating to the
23 West Virginia health care cost review authority (expedited review
24 for rate changes), are authorized with the amendments set forth
25 below:

1 On page 5, Section 4.1, after the words: "affected by the
2 increase." by inserting the following language: "The hospital
3 shall also reconcile any excesses in gross revenue, gross patient
4 revenue, gross inpatient revenue or charges per discharge.
5 Within fifteen days of submission the Authority shall inform the
6 hospital if it accepts the justification for excesses provided by
7 the hospital."

8 And,

9 On page 6, section 4.2, after the words "the excess in gross
10 outpatient revenue" by striking the period and inserting the
11 following:

12 "or if any excesses in the above categories (1 through 4)
13 have been sufficiently justified to the Authority as required in
14 Section 4.1 of this rule."

15 (i) The legislative rules filed in the state register on the
16 eleventh day of September, one thousand nine hundred eighty-nine,
17 modified by the West Virginia health care cost review authority
18 to meet the objections of the legislative rule-making review
19 committee and refiled in the state register on the fifth day of
20 December, one thousand nine hundred eighty-nine, relating to the
21 West Virginia health care cost review authority (exemption for
22 conversion of acute care beds to skilled nursing care beds), are
23 authorized.

24 (j) The legislative rules filed in the state register on the
25 thirtieth day of July, one thousand nine hundred ninety, modified

1 by the health care cost review authority to meet the objections
2 of the legislative rule-making review committee and refiled in
3 the state register on the twenty-fifth day of September, one
4 thousand nine hundred ninety, relating to the health care cost
5 review authority (exemption for shared services), are authorized.

6 (k) The legislative rules filed in the state register on the
7 thirty-first day of July, one thousand nine hundred ninety,
8 modified by the health care cost review authority to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the twenty-fifth day of
11 September, one thousand nine hundred ninety, relating to the
12 health care cost review authority (health services offered by
13 health professionals), are authorized.

14 (l) The legislative rules filed in the state register on the
15 eleventh day of September, one thousand nine hundred ninety,
16 modified by the West Virginia health care cost review authority
17 to meet the objections of the legislative rule-making review
18 committee and refiled in the state register on the twenty-fourth
19 day of January, one thousand nine hundred ninety-one, relating to
20 the West Virginia health care cost review authority (conversion
21 of acute care beds to one hundred skilled nursing care beds), are
22 authorized.

23 (m) The legislative rules filed in the state register on the
24 twelfth day of August, one thousand nine hundred ninety-one,
25 modified by the health care cost review authority to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the eighth day of November, one
3 thousand nine hundred ninety-one, relating to the health care
4 cost review authority (health services offered by health
5 professionals) are authorized.

6

7 NOTE: The purpose of this bill is to authorize the Health
8 Care Cost Review Authority to promulgate legislative rules
9 relating to health services offered by health professionals.

10
11 Strike-throughs indicate language that would be stricken from
12 the present law, and underscoring indicates new language that
13 would be added.



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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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HEALTH CARE COST REVIEW AUTHORITY
1992 OCT 19 PM 12:51

TO: Marianne Stonestreet
AGENCY: Health Care Cost Review Authority
FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION
DATE: October 19, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 17 TITLE: 65 Health Care Cost Review Authority

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MADE.

SIGNATURE: Marianne K. Stonestreet
TITLE OF PERSON SIGNING: General Counsel
DATE: 10-27-92

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE APPROPRIATE PERSON.