

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box

FILED

2009 JUL 17 PM 3:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Health Insurance Plan Insurance Commissioner TITLE NUMBER: 113

CITE AUTHORITY W.Va. Code §§33-2-10 and 33-48-7d

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

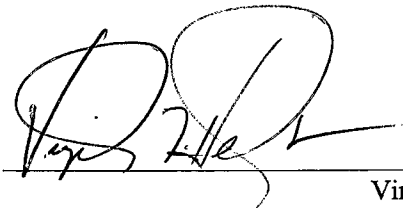
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Premium Subsidy

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Virgil T. Helton
Cabinet Secretary
West Virginia Department of Revenue

\$4.00

Board of Directors of the West
Virginia Health Insurance Plan
Legislative Rule
Title 113, Series 1

PREMIUM SUBSIDY

TITLE 113, SERIES 1

BRIEF SUMMARY OF RULE

The rule provides that, upon determination that a surplus exists, the Board of Directors of the West Virginia Health Insurance Plan must create a schedule of premium subsidies that varies with income to assist low income individuals who are eligible for coverage under the Plan in paying the premium costs of the Plan. A surplus is money being held in the West Virginia Health Insurance Plan Fund, as created by W.Va. Code §33-48-7a, that is above the amount necessary to provide fully for the expected costs of claims and other expenses stemming from the administration of the Plan. To be eligible for a premium subsidy, a person must have an annual household income at or below 200% of the federal poverty level and also be eligible for coverage under the Plan.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

LEGISLATIVE RULE TITLE: Premium Subsidy, Title 113, Series 1

1. **Authorizing statute(s) citation:**

W. Va. Code §§33-2-10 and 33-48-7b.

2. a. **Date filed in State Register with Notice of Hearing or Public Comment Period:**

May 26, 2009 - Comment Period.

b. **What other notice, including advertising, did you give of the hearing?**

N/A

c. **Date of Public Hearing(s) or Public Comment Period ended:**

June 25, 2009. - End of Comment Period

d. **Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached _____ No comments received X

e. **Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)**

Insurance Commissioner
Title 113, Series 1

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Timothy R. Murphy, Associate Counsel
West Virginia Insurance Commission
Legal Division
P.O. Box 50540
Charleston, WV 25305-0540
Phone: (304) 558-6279, Ext. 1210
Fax: (304) 558-1362
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

N/A

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

N/A

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Premium Subsidy (Title 113 - Series 1)

Type of Rule: Legislative Interpretive Procedural Emergency

Agency: Board of Directors of the West Virginia Health Insurance Plan

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	N/A	N/A	N/A
Personal Services	N/A	N/A	N/A
Current Expenses	N/A	N/A	N/A
Repairs & Alterations	N/A	N/A	N/A
Assets	N/A	N/A	N/A
Other	N/A	N/A	N/A
2. Estimated Total Revenues	N/A	N/A	N/A

Rule Title: Premium Subsidy (Title 113 - Series 1)

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: _____

Signature of Agency Head or Authorized Representative

Jane L. Cline, Ex Officio Member & Chairperson of the
Board of Directors of the West Virginia Health Insurance Plan

Board of Directors of the West
Virginia Health Insurance Plan
Legislative Rule
Title 113, Series 1

PREMIUM SUBSIDY

TITLE 113, SERIES 1

STATEMENT OF CIRCUMSTANCES

As a result of statutory assessments on state hospitals, it was determined that the West Virginia Health Insurance Plan Fund has money above the amount necessary to provide fully for the expected cost of claims and administrative expenses. Given this surplus, the Legislature enacted Senate Bill 408 during the 2009 regular session. The legislation authorizes the use of the surplus to subsidize the premiums of certain low-income enrollees of the West Virginia Health Insurance Plan. The legislation further requires the Board of Directors of the Plan to promulgate a rule providing for conditions under which eligible low-income individuals can obtain a premium subsidy.

**TITLE 113
LEGISLATIVE RULE
BOARD OF DIRECTORS OF THE
WEST VIRGINIA HEALTH INSURANCE PLAN**

**SERIES 1
PREMIUM SUBSIDY**

Section

- 113-1-1. General.
- 113-1-2. Definitions.
- 111-1-3. Determination of Surplus.
- 111-1-4. Eligibility for Premium Subsidy.
- 113-1-5. Delegation of Authority to Plan Administrator.

**TITLE 113
LEGISLATIVE RULE
BOARD OF DIRECTORS OF THE
WEST VIRGINIA HEALTH INSURANCE PLAN**

**SERIES 1
PREMIUM SUBSIDY**

§113-1-1. General.

1.1. Scope. -- The purpose of this rule is to establish criteria for certain individuals to obtain a premium subsidy with the West Virginia Health Insurance Plan.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-48-7b.

1.3. Filing Date. --

1.4. Effective Date. --

§113-1-2. Definitions.

2.1. "Board" means the Board of Directors of the Plan.

2.2. "Low income eligible individuals" means those persons having an annual household income at or below 200% of the federal poverty level who are eligible for coverage under the Plan as provided in W. Va. Code §33-48-4.

2.3. "Plan" means the West Virginia Health Insurance Plan as created in W. Va. Code §33-48-2.

2.4. "Plan Administrator" means the administrator of the Plan selected by the Board pursuant to W. Va. Code §33-48-6.

2.5. "Premium subsidy" means the difference between the amount of periodic payment the Plan Administrator makes to the Plan on behalf of the low income eligible individual plus the administrative cost to the Plan of providing the Plan to that low income eligible individual, and the amount determined by the Board to be the low income eligible individual's premium responsibility.

2.6. "Surplus" means funds being held in the West Virginia Health Insurance Plan Fund pursuant to W. Va. Code §33-48-7a that are above those amounts necessary to provide fully for the expected costs of claims and other expenses listed in W. Va. Code §33-48-7(a).

§113-1-3. Determination of Surplus.

**Board of Directors of the
WV Health Insurance Plan
Title 113, Series 1
Legislative Rule**

3.1. The Board shall periodically, but no less than annually, determine if a surplus exists.

3.2. In making a determination concerning the existence of a surplus, the Board may consider an actuarial analysis and any other information developed by or presented to the Board that demonstrates the status of a surplus.

3.3. Whenever the Board finds that there is a significant possibility that premium subsidies may result in an over-expenditure of the surplus, the Board may discontinue the use of the surplus to subsidize premiums until the Board determines that the possibility for over-expenditure no longer exists. The Board shall give low income eligible individuals who are receiving a premium subsidy thirty days' notice prior to such a discontinuance.

§113-1-4. Eligibility for Premium Subsidy.

4.1. In the event the Board determines that a surplus exists, the Board shall create a schedule of premium subsidies that varies with income to assist low income eligible individuals in paying the premium costs of the Plan. The Board may adopt as many income categories within the premium subsidy schedule as it finds necessary and practical.

4.2. For the purposes of determining the eligibility of a person for a premium subsidy, the household income shall be based on the preceding twelve months and the Board may consider information obtained from the West Virginia Department of Health and Human Resources or any other state or federal agency. The eligibility of low income eligible individuals who receive a premium subsidy shall be periodically, but no less than annually, reassessed by the Board.

4.3. No person shall be eligible for a premium subsidy if that person's premium is paid by a third party who is not a family member of the person.

§113-1-5. Delegation of Authority to Plan Administrator.

5.1. The Board may delegate or assign any of its authority or duties set forth in this rule to the Plan Administrator.