

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 511

An Act to amend and reenact §§ 32.1-325, 63.1-97.1 and 63.1-107 of the Code of Virginia, relating to the state plan for medical assistance services.

[H 1278]

Approved April 1, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325, 63.1-97.1 and 63.1-107 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time and submit to the Secretary of the United States Department of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of twenty-one, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$2,500 for the individual and an amount not in excess of \$2,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of twenty-one, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of twenty-one days per admission; ~~and~~

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home; ~~and~~

6. *A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance.*

In preparing the plan, the Board shall work cooperatively with the State Board of Health to ensure that quality patient care is provided. The Board shall also initiate such cost containment or other measures as are set forth in the appropriations act. The Board may make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of Title 9. However, the Board shall, pursuant to the requirements of § 9-6.14:4.1, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal

law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments which are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

B. The Director of Medical Assistance Services is authorized to administer such state plan and to receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and to enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

C. The Director of Medical Assistance Services is authorized to enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

The Director may refuse to enter into or renew an agreement or contract with any provider which has been convicted of a felony. In addition, the Director may refuse to enter into or renew an agreement or contract with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of a felony.

In any case in which a Medicaid agreement or contract is denied to a provider on the basis of his interest in a convicted professional or other corporation, the Director shall, upon request, conduct a hearing in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) regarding the provider's participation in the conduct resulting in the conviction.

The Director's decision upon reconsideration shall be consistent with federal and state laws. The Director may consider the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients.

When the services provided for by such plan are services which a clinical psychologist is licensed to render in Virginia, the Director shall contract with any duly licensed clinical psychologist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan.

D. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance as may be permitted by federal law to establish a program of family assistance whereby children over the age of eighteen years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

E. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

Except as provided in subsection I of § 11-45, the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.) shall not apply to the activities of the Director authorized by this subsection. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 63.1-97.1. Provisions for determination of eligibility for medical care and assistance; provision of necessary social services; rules and regulations; hearings; federal funds.

The Commissioner of the Department of Social Services and the Commissioner of the Virginia Department for the Visually Handicapped shall, subject to the state plan developed by the ~~State Health Commissioner~~ *Board of Medical Assistance Services* and approved by the Governor, make necessary provisions for the determination of eligibility for medical care and assistance and the provision of necessary social services as may be required for state participation under Public Law 97 of the 89th Congress of the United States, approved July 30, 1965, and any amendments heretofore or hereafter made, if any, and rules and regulations of the federal Department of Health and Human Services. Within the limits of the state plan and applicable federal laws, the Commissioners may make such reasonable rules and regulations as they may deem necessary to the effective implementation of such functions including the safeguarding of information concerning applicants and recipients. ~~The Commissioners shall have authority to participate in hearings prescribed in the plan and to receive and expend federal funds in accordance with applicable federal and state laws.~~

§ 63.1-107. Application for assistance.

Except as provided for in the state plan for medical assistance services pursuant to § 32.1-325, application for assistance shall be made to the local board and filed with the local superintendent of the county or city in which the applicant resides. The application shall be in writing on forms prescribed by the Commissioner and shall be signed by the applicant under penalty of perjury in accordance with § 63.1-107.1. Such application shall contain a statement of the amount of property, real and personal, in which the applicant has an interest and of all income which he may have at the time of the filing of the application and such other information as the Commissioner may require.

In the case of aid to families with dependent children, the application shall be made by the relative with whom the child is living and one application may be made for several children if they reside with the same person.

In the case of auxiliary grants, social services to the blind or visually handicapped, and general relief, if the condition of the potential recipient is such as to preclude his signing an application, the application may be made in his behalf by his guardian or committee. If no guardian or committee has been appointed for such potential recipient, such application may be made by any adult member of his family or other competent adult person having knowledge of the potential recipient's financial affairs, until such time as a guardian or committee is appointed by a court.