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HOUSE BILL NO. 572

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 6, 1996)

(Patron Prior to Substitute—Delegate Griffith)

A *BILL to amend and reenact § 32.1-325 of the Code of Virginia, relating to medical assistance services and authority to impose sanctions and other remedies.*

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325 of the Code of Virginia is 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.

In preparing the plan, the Board shall work cooperatively with the State Board of Health to ensure that quality patient care is provided *and that the health, safety, security, rights and welfare of patients are ensured.* 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.

The Board's regulations shall establish sanctions and remedies for certified nursing facilities in accordance with 42 CFR 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

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

60 Chapter 1.1:1 of Title 9. However, the Board shall, pursuant to the requirements of § 9-6.14:4.1, (i)
61 notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal
62 law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor
63 that the regulations are necessitated by an emergency situation. Any such amendments which are in
64 conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the
65 next regular session of the General Assembly unless enacted into law.

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

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

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

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

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

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

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

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

101 Except as provided in subsection I of § 11-45, the provisions of the Virginia Public Procurement Act
102 (§ 11-35 et seq.) shall not apply to the activities of the Director authorized by this subsection.
103 Agreements made pursuant to this subsection shall comply with federal law and regulation.