

Full Performance Evaluation

Insurance Commission

**Under the Current Funding Option, The
Insurance Commission Projects that
AccessWV Will Begin Operating With
a Budget Deficit in CY 2007 and
End CY 2009 With a Fund Deficit**



JOINT COMMITTEE ON GOVERNMENT ORGANIZATION

Senate

Edwin J. Bowman
Chair

Billy Wayne Bailey, Jr.
Vice Chair

Walt Helmick

Donna J. Boley

Sarah M. Minear

Citizen Members

Dwight Calhoun

John Canfield

James Willison

W. Joseph McCoy
(Vacancy)

House Of Delegates

J.D. Beane
Chair

Timothy R. Ennis
Vice Chair

Joe Talbott

Craig P. Blair

Otis Leggett

Scott G. Varner, Ex
Officio Non-Voting
Member



OFFICE OF THE LEGISLATIVE AUDITOR

Aaron Allred
Legislative Auditor

John Sylvia
Director

Michael Midkiff
Research Manager

Russell Kitchen
Senior Research Analyst

Brandon Burton
Research Analyst

Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305
(304) 347-4890

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

January 7, 2007

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Full Performance Evaluation of the Insurance Commission, which will be presented to the Joint Committee on Government Operations on Sunday, January 7, 2007. The issue covered herein is "Under the Current Funding Option, The Insurance Commission Projects that Access WV Will Begin Operating With a Budget Deficit in CY 2007 and End CY 2009 With a Fund Deficit."

We transmitted a draft copy of the report to the Insurance Commission on December 8, 2006. We held an exit conference with the Insurance Commission on December 18, 2006. We received the agency response on December 22, 2006.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/jda

Joint Committee on Government and Finance

Contents

Executive Summary	5
Review Objective, Scope and Methodology	7
Issue 1: Under the Current Funding Option, The Insurance Commission Projects that AccessWV Will Begin Operating With a Budget Deficit in CY 2008 and End CY 2011 With a Fund Deficit.....	9
 List Of Tables	
Table 1: AccessWV Actual and Projected Revenue Statements.....	12
Table 2: Summary of Risk Pool Funding Mechanisms Used by Different States.....	13
Table 3: AccessWV Monthly Enrollment.....	15
 List Of Appendices	
Appendix A: Transmittal Letter to Agency.....	21
Appendix B: Agency Response.....	23

Executive Summary

Issue 1: Under the Current Funding Option, The Insurance Commission Projects that AccessWV Will Begin Operating With a Budget Deficit in CY 2008 and End CY 2011 With a Fund Deficit.

AccessWV is West Virginia's high risk health-care insurance pool and is organized under the Insurance Commission. The program guarantees coverage to all residents who, due to their medical status, are unable to obtain coverage in the regular insurance market.

Participants' health insurance premiums and an annual assessment on hospitals are the usual funding sources for the AccessWV Program.

The Insurance Commission projects that the program will begin operating with a budget deficit in CY 2008 and a fund deficit by the end of CY 2011.

AccessWV is West Virginia's high risk healthcare insurance pool and is organized under the Insurance Commission. The program guarantees coverage to all residents who, due to their medical status, are unable to obtain coverage in the regular insurance market. The Public Employees Insurance Agency (PEIA) administers the program. The Legislature created the AccessWV Program with the passage of the Model Health Plan for Uninsurable Individuals Act of 2004. Participants' premiums and a 0.025% assessment on hospitals' gross revenues fund the program.

According to the 2005-2006 Edition of *Comprehensive Health Insurance for High-risk Individuals: A State-by-State Analysis*, published by Communicating for Agriculture and the Self-Employed, Incorporated, 33 states have passed legislation creating health insurance programs for high risk individuals, commonly known as state risk pools. The AccessWV Program accepts residents who have sought medical insurance, but have been denied health insurance coverage because of health conditions, who can afford the premiums and who have no other alternative coverage. The program's goal is to have high risk residents covered by health insurance.

Participants' health insurance premiums and an annual assessment on hospitals are the usual funding sources for the AccessWV Program. Premiums are capped at 150% of regular market rates. AccessWV Hospital assessments are not to exceed a maximum of 25% of the 0.10% assessed on hospitals' gross revenues for the operation of the Health Care Authority. The Insurance Commission projects that the program will begin operating with a budget deficit in CY 2008 and a fund deficit by the end of CY 2011. AccessWV is also projected to end CY 2008 with 729 policies in effect and end CY 2011 with 1,375 policies in effect.

It is possible that enrollment in the AccessWV Program could deviate from current projections, which are based on educated guesses. For the purposes of long-term planning, the Legislature may want to consider capping enrollment in the AccessWV Program as an option since the Commission has no long-term data that can reliably pre-

dict future growth in enrollment. The Insurance Commission could determine a financially sustainable enrollment level, based on current funding arrangements, and recommend this as a cap. If the Legislature wants to expand the program at some point, it could remove or modify the cap.

In the course of this review, the Legislative Auditor's staff determined that while the application form for the AccessWV Program instructs staff to determine each applicant's eligibility for other government programs, there is no formal process to determine eligibility or to provide information to applicants regarding other programs for which they may be eligible. Information on other programs is necessary to ensure that no one who is eligible for Medicaid enrolls in the AccessWV Program, which requires the payment of monthly premiums ranging between \$179 and \$3,077. **The Insurance Commission should provide an informational brochure on the Medicaid Program to all AccessWV applicants that outlines Medicaid eligibility requirements.** This would ensure that low-income AccessWV applicants know to contact the Department of Health and Human Resources (DHHR) for Medicaid eligibility determination.

Recommendations

1. *For the purposes of long-term planning, the Legislature should consider capping enrollment in the AccessWV Program as an option since the Commission lacks long-term data that can reliably predict future growth in enrollment.*
2. *The Insurance Commission should return to the Legislature in 2007 with an updated financial plan that will reflect actual program experience and provide projections of future program costs as well as offer recommendations regarding funding mechanisms.*
3. *The Insurance Commission should provide an informational brochure on the Medicaid Program to all AccessWV applicants that outlines Medicaid eligibility requirements.*

Review Objective, Scope and Methodology

Objective

This is a Full Performance Evaluation of the Insurance Commission, as required by the West Virginia Code §4-10-10. The objective of this report is to examine the financial management of the newly-created AccessWV high-risk insurance pool, comparing it to funding mechanisms used by other states' risk pools and identifying possible future funding sources and management options.

Scope

The scope of this evaluation extends from January 2004 to December 2006.

Methodology

The Legislative Auditor's staff acquired information on state risk pools from the 2005-2006 edition of the *Comprehensive Health Insurance for High-risk Individuals: A State by State Analysis*, published by Communicating for Agriculture and the Self-Employed, Incorporated, in cooperation with the National Association of State Comprehensive Health Insurance Plans. Other reference sources include the *West Virginia Code*, information from AccessWV's Executive Director, the AccessWV web site, AccessWV annual reports, meeting minutes of the High Risk Pool Board since its creation in January 2004 and the *AccessWV Financial Plan for Calendar Years 2006-2011*.

Issue 1

Under the Current Funding Option, The Insurance Commission Projects that AccessWV Will Begin Operating With a Budget Deficit in CY 2008 and End CY 2011 With a Fund Deficit.

Issue Summary

The Legislature created the AccessWV Program with the passage of the Model Health Plan for Uninsurable Individuals Act of 2004. Participants' premiums and a 0.025% assessment on hospitals' gross revenues fund the program. This funding arrangement may or may not continue, as the Legislature is considering permanent funding sources for the program to supplement premium revenues. The Insurance Commission projects that the program will begin operating with a budget deficit in CY 2008 and a fund deficit by the end of CY 2011. AccessWV is also projected to end CY 2008 with 729 policies in effect and end CY 2011 with 1,375 policies in effect. Maryland is the only other state with a similar insurance program that relies exclusively on participants' premiums and hospital assessments. Maryland assesses hospitals at a higher rate (0.73%).

The Insurance Commission has identified possible future funding sources. Suggested funding mechanisms include assessments on insurers, assessments on insurers with or without offsetting tax credits, assessments on reinsurers and third party administrators, assessments on providers or other state funds.

The Insurance Commission has identified possible future funding sources. Suggested funding mechanisms include assessments on insurers, assessments on insurers with or without offsetting tax credits, assessments on reinsurers and third party administrators, assessments on providers or other state funds. For the purposes of long-term planning, the Legislature should consider capping enrollment in the AccessWV Program as an option since the Commission has no data that can reliably predict future growth in enrollment. Only one state, California has found the need to implement a cap, but given the Insurance Commission's lack of data, it cannot predict growth in enrollment. The Legislative Auditor recommends the Insurance Commission return to the Legislature in January 2007 with an updated financial plan that includes recommendations regarding new funding mechanisms.

The Insurance Commission currently cannot determine the eligibility of low-income AccessWV Program applicants for other government programs, such as Medicaid. The Commission should contact the Department of Health and Human Resources (DHHR) for the purpose of designing a process whereby it identifies low-income AccessWV Program applicants who may be eligible for the Medicaid Program and refers them to the DHHR to complete a Medicaid application.

32 States in Addition to West Virginia Have Established State Risk Pools

According to the 2005-2006 Edition of *Comprehensive Health Insurance for High-risk Individuals: A State-by-State Analysis*, published by Communicating for Agriculture and the Self-Employed, Incorporated, 33 states have passed legislation creating health insurance programs for high-risk individuals, commonly known as state risk pools. West Virginia's AccessWV Program is the newest, becoming operational in July, 2005. Twenty-eight (28) of these programs are currently open for enrollment during the entire year and are accepting all who are eligible. Clearly, a large number of states have recognized the need for this type of health insurance program for high-risk individuals.

AccessWV is West Virginia's high risk healthcare insurance pool and is organized under the Insurance Commission. The program guarantees coverage to all residents, regardless of medical condition or history.

AccessWV Provides Healthcare Coverage to Residents Who Are Unable to Purchase Coverage Through the Regular Market

AccessWV is West Virginia's high risk healthcare insurance pool and is organized under the Insurance Commission. The program guarantees coverage to all residents, regardless of medical condition or history. The Public Employees Insurance Agency (PEIA) administers the program. The PEIA performs the following functions for AccessWV:

1. Eligibility determination;
2. Premium billing;
3. Customer service; and
4. Medical and pharmaceutical claims processing.

The AccessWV Program accepts residents who have sought medical insurance, but have been denied coverage by insurance companies. AccessWV is most similar to the Maryland Health Insurance Plan (MHIP). Both states placed a premium cap of 150% of regular market prices. West Virginia and Maryland's high-risk pools are the only ones funded exclusively through subscriber premiums and hospital assessments. MHIP has been operational since July 1, 2003. The growth in the number of individuals enrolled in MHIP has been substantially greater than enrollment in AccessWV. At the conclusion of MHIP's first 6 months, the program had 6,137 participants. In AccessWV's first 5 months, 128 people participated in the program.

West Virginia did not model its high-risk pool after any one state. It was based on a model from the National Association of Insurance Commissioners (NAIC). An Insurance Commission representative stated that the commission studied surrounding states and states of similar size when designing the pool. The commission examined all states that have a high-risk pool in order to construct the AccessWV program.

AccessWV Receives Funding Through Subscriber Premiums and Hospital Assessments

West Virginia did not model its high-risk pool after any one state. It was based on a model from the National Association of Insurance Commissioners (NAIC).

During FY 2004, the AccessWV Program began operations with \$1,000,000 in grant funding received from the Centers for Medicare and Medicaid Services for the purpose of developing a high-risk pool. Participants' health insurance premiums and an annual assessment on hospitals are the usual funding sources for the AccessWV Program. Premiums are capped at 150% of regular market rates. AccessWV Hospital assessments are not to exceed a maximum of 25% of the 0.10% assessed on hospitals' gross revenues for the operation of the Health Care Authority. The assessment, therefore, equals 0.025% of hospital gross revenues. Table 1 summarizes the AccessWV Program's projected financial situation through CY 2009, as stated in the AccessWV 2005 Annual Report:

Table 1					
AccessWV Actual and Projected Revenue Statements					
	CY 2005	CY 2006 (Projected)	CY 2007 (Projected)	CY 2008 (Projected)	CY 2009 (Projected)
<u>Revenue</u>					
Federal Grants	\$1,000,000	—	—	—	—
Assessments	\$1,658,025	\$1,724,000	\$1,793,000	\$1,865,000	\$1,940,000
Premiums	\$199,164	\$2,253,876	\$6,599,980	\$12,208,430	\$18,909,626
Interest	\$52,111	\$112,457	\$144,887	\$140,140	\$86,016
Revenue Total	\$2,909,300	\$4,090,333	\$8,537,867	\$14,213,570	\$20,935,642
<u>Expenses</u>					
Medical Claims	\$28,915	\$1,959,809	\$6,688,825	\$13,000,404	\$19,996,563
Pharmacy Claims	\$4,966	\$289,080	\$1,063,748	\$2,231,029	\$3,751,417
Administrative Expenses	\$352,430	\$538,535	\$815,828	\$1,048,943	\$1,285,882
Expense Total	\$386,311	\$2,787,425	\$8,568,391	\$16,280,376	\$25,033,863
Period Surplus/ (Deficit)	\$2,522,989	\$1,302,908	\$(30,525)	\$(2,066,806)	\$(4,098,220)
Beginning of CY Funds Available	\$1,502,426	\$4,025,415	\$5,328,323	\$5,297,798	\$3,230,992
Period Surplus/ (Deficit)	\$2,522,989	\$1,302,908	\$(30,525)	\$(2,066,806)	\$(4,098,220)
End of CY Funds Available	\$4,025,415	\$5,328,323	\$5,297,798	\$3,230,992	\$(867,828)

Data Source: AccessWV 2005 Annual Report

The Insurance Commission projects that the program will begin operating with a budget deficit in CY 2008 and a fund deficit by the end of CY 2011. AccessWV is also projected to end CY 2008 with 729 policies in effect and end CY 2011 with 1,375 policies in effect.

There Are Five Main Funding Options Used by Other States' High Risk Pools

Insurance provided by state risk pools is essentially government subsidized. In the absence of large premium increases, sources of revenue in addition to premium revenues are required. The Insurance Commission

discussed the need for risk pools to supplement premium revenues in a report entitled, *Financing Options for AccessWV*, which it released in March 2006:

The experience from the other 32 states that operate risk pools shows that premiums cover, on average, only 50-60 percent of operating costs. States cover these shortfalls mainly through assessments on insurers, assessments or service charges on hospitals or state general fund revenues; although there are many variations of these basic financing mechanisms.

Of the 32 other states with risk pools, 26 states use assessments on insurance carriers as at least one funding source.

The other 32 states with risk pools fund their programs through one or more of five funding mechanisms (see Table 2). Most states fund their high risk pool losses through assessments on insurance carriers. Of the 32 other states with risk pools, 26 states use assessments on insurance carriers as at least one funding source. The least used funding mechanism among all states is tobacco settlement money. Only Kentucky and Minnesota use this type of funding mechanism. Legislation in all states places a cap on premium rates. Currently, there are 12 states with premiums set at a higher rate than West Virginia's 150% of regular market rates.

Assessment to insurance company association members, with full or partial tax credit allowed by the state to offset costs: Insurance carriers are assessed for the losses of the plan, but this assessment is offset against premium taxes or income taxes paid to the state.	10 states
Assessment to insurance company association member, with no tax offset: Insurance carriers are assessed for program losses in proportion to the value of health insurance premiums written in the state.	10 states
Assessment of insurance carriers, including stop loss and reinsurance carriers, on a per covered lives basis: Carriers are assessed on the number of individuals on a per covered lives basis.	6 states
Allocation from state funds: Under this option, the state simply allocates funds to compensate for losses that premiums do not cover.	10 states
Other mechanisms: Some states use assessments on hospitals, hospital taxes, tobacco settlement funds, or raise premiums to fund program losses.	10 states
<i>Source: A state-by-state Analysis, published by Communicating for Agriculture and the Self-Employed, Incorporated.</i>	

The Commission's Projected Future Enrollment in AccessWV Is An Educated Guess

The Insurance Commission's early projections regarding the growth in AccessWV's enrollment were not based on hard data on the population served by the program or trends in the number of applications for AccessWV coverage. Projections took the form of an educated guess.

The Insurance Commission's early projections regarding the growth in AccessWV's enrollment were not based on hard data on the population served by the program or trends in the number of applications for AccessWV coverage. Projections took the form of an educated guess. The Insurance Commission might have been able to make more accurate projections if it could have previously tracked the number of state residents denied health insurance by private companies. However, the Executive Director of AccessWV made the following statement concerning enrollment:

There aren't data on the number of WV residents denied insurance coverage annually. These would have to be collected from the insurers writing in the individual market; however, they may not track this information.

The projections are higher than the net gain in applications [for enrollment in AccessWV] monthly. The projections are "guidelines" that have been used to develop financial projections and are based on "best thinking" at the time the financial projections are revised.

By setting the projected monthly rate of growth in enrollment to a figure which exceeds the present monthly rate of growth, the Insurance Commission is of the opinion that this approach represents a reasonable basis for planning.

Table 3 provides data on enrollment in the AccessWV Program since it began operations. Net increases in enrollment have generally fallen in the range from 20 to 30 per month, with a median increase of 21. An actuarial study from December 2006 assumes that the program will reach a maximum enrollment of approximately 1,500 policies. The study bases its projections on the assumption that the program will gain an average of 18 policies monthly given its current premium structure (140% of the standard rate). The study also projects that the program will grow at an average of 25 policies per month at the minimum premium rate permitted by law (125% of the standard rate). At an intermediate premium rate of 135% of the standard rate, the study projects a gain of 20 policies per month.

Table 3 provides data on enrollment in the Access-WV Program since it began operations. Net increases in enrollment have generally fallen in the range from 20 to 30 per month, with a median increase of 21.

Table 3 AccessWV Monthly Enrollment		
Month/Year	Members	Enrollment Increase
08/05	16	--
09/05	44	28
10/05	67	23
11/05	84	17
12/05	102	18
01/06	129	27
02/06	151	22
03/06	171	20
04/06	191	20
05/06	207	16
06/06	234	27
07/06	248	14
08/06	258	10
09/06	285	27
10/06	289	4
11/06	323	34
12/06	345	22
Median	191	21
<i>Data Source: AccessWV Program</i>		

As of December 2006, the program has canceled a total of 52 policies due to non-payment of premiums. The program readily reinstates coverage for those who bring their premium payments up to date. Seven (7) policyholders have had their coverage reinstated, while three had their coverage terminated a second time.

Other States Have Been Forced to Cap Enrollment in High Risk Pools or Place Individuals on Waiting Lists

Louisiana's and Illinois' high risk insurance pools recently placed applicants on waiting lists for enrollment. In these states, program losses are covered by state appropriations. California's pool once had a waiting list, but currently does not. Since it relies on state appropriations to recoup program losses, Utah may be forced to implement a waiting list.

The Insurance Commission could determine a financially sustainable enrollment level, based on current funding arrangements, and recommend this as a cap. If the Legislature wants to expand the program at some point, it could remove or modify the cap.

Florida's high-risk pool has been closed to new enrollment since 1991 because of large program losses. The pool now assists low-risk policyholders with transfers into the private market. Policyholders who terminate coverage are not eligible to ever regain coverage through the program. Florida has explored multiple funding sources for the pool, including general revenue funding, assessments with an allowance for tax credits, and the use of tobacco settlement funds. Despite several attempts, the Florida high-risk pool remains closed to new enrollment. **For the purposes of long-term planning, the Legislature may want to consider capping enrollment in the AccessWV Program as an option since the Commission has no hard data that can reliably predict future growth in enrollment.** It is possible that enrollment in the AccessWV Program could deviate from current projections, which are based on educated guesses. The Insurance Commission could determine a financially sustainable enrollment level, based on current funding arrangements, and recommend this as a cap. If the Legislature wants to expand the program at some point, it could remove or modify the cap.

During the course of this review, Insurance Commission staff expressed concern regarding the restrictiveness of a cap on enrollment. The Commission would prefer to rely on actuarial projections to maintain enrollment at a financially sustainable level, without a statutory limit. The Legislative Auditor recommends that the Legislature consider a cap as an option since there is no long-term operating history for the AccessWV Program and, therefore, a lack of data to indicate trends in future enrollment.

Maryland is the only other state besides West Virginia that funds its pool exclusively through hospital assessments and subscriber premiums. Maryland charges hospitals for all inpatient and outpatient care at a rate of 0.73% in order to fund the pool. The assessments of hospitals (\$57,402,181) collected over two times as much money as premiums collected (\$18,615,587) by the program in 2004. Maryland paid \$33,038,426 in claims and the cost of operation was another \$2,400,724 in 2004. The Maryland program had a surplus during FY 2003 and FY 2004. The program's premium revenues were \$9,396,448 and it also collected \$19,279,011 in hospital assessments. Its FY 2003 expenditures were \$9,556,121 in paid claims and \$1,371,643 in administrative costs. To follow the Maryland plan, assessments on West Virginia's hospitals should generate approximately twice as much revenue as subscriber premiums. AccessWV's projected 2006 revenues include \$1,724,000 in hospital assessments and \$2,253,876 in premiums. The projected revenues collected by the West Virginia pool for hospital assessments are less than revenues

generated through subscriber premiums. Increasing the rate of assessment on hospitals is an option if the AccessWV Program requires additional funding.

The Insurance Commission Has Identified Future Financing Options for AccessWV

Under current assumptions, during CY 2008, the program will develop a budget deficit of \$2 million, which the Insurance Commission projects will increase to \$4 million by CY 2009.

The Insurance Commission reviewed various funding mechanisms for the AccessWV Program in the March 2006 report. According to the commission, assessments on insurance carriers could provide as much as \$2 million dollars annually.

Under current assumptions, during CY 2008, the program will develop a budget deficit of \$2 million, which the Insurance Commission projects will increase to \$4 million by CY 2009. In light of these projections, the Insurance Commission's March 2006 report on financing options for the program made this statement concerning the use of financing mechanisms used by other states:

Other states utilize three basic strategies for funding high risk pools—assessments on insurers, assessments on providers and state general revenues. These have a number of variations and many states draw on more than one funding source. What works best for any one state is a function of many factors including the insurance market, the health care delivery system, the attitude toward public spending, etc. As a result, the situation with regard to high risk pool financing is like a variegated patchwork quilt, with a unique approach in each state. Since states are continually evaluating their approaches, it is also far from a static situation.

The Insurance Commission reviewed various funding mechanisms for the AccessWV Program in the March 2006 report. According to the commission, assessments on insurance carriers could provide as much as \$2 million dollars annually. The argument for this type of funding is that private insurers would benefit by excluding high risk individuals from their pools. However, as the report points out, 50% of employer-sponsored coverage is through self-insured groups that would not contribute to this type of financing.

The report also discusses other variations on insurance assessments, such as extending the assessment to reinsurers and third party administrators or offsetting insurer assessments with full or partial tax credits. Both approaches would spread the financing burden broadly. The report states:

Extending the assessments to reinsurers and third party administrators extends the burden across the insured population by including health carriers as well as the entities that serve self-funded plans.

The report further states that full or partial tax credits for assessed insurers provide an indirect subsidy to the program. The report states that a tax credit:

...spreads the financing burden beyond carriers and their insureds to the general population by tapping into state general revenues. This approach is a way of providing a state subsidy without the need for a specific appropriation.

Tax credits compensate assessed entities by reducing their tax liabilities. Essentially, it is a manner in which risk pools can obtain funding without a direct appropriation from the state. The tax credit means that at least a portion of the additional funding comes from the state in the form of tax liability reductions.

Provider assessments are another possible means to increase program funding. Maryland is currently the only state that utilizes provider assessments, which levies them as part of its all-payer rate setting process.

Provider assessments are another possible means to increase program funding. Maryland is currently the only state that utilizes provider assessments, which levies them as part of its all-payer rate setting process. The costs are spread to all payers-insurers, the self-insured and public programs. According to the commission, West Virginia could simply add such assessments to patient bills. This may appear to be a tax on the sick but according to the program:

...the costs would not be borne necessarily by the patients but would appear to be spread among those in their payers' pools. Again "who pays?" would depend upon whether which bills, if any, were exempt from the add-on.

The report discussed one last funding mechanism, state general revenue funds and other state monies. The commission considers the following as alternative sources of funds for the program:

1. Increasing property or auto insurance taxes;
2. Obtaining interest from the tobacco settlement fund;
3. Increasing the tobacco tax; and/or
4. The General Revenue Fund.

The Legislative Auditor recommends that the Insurance Commission return to the Legislature in 2007 with an updated financial plan that will reflect actual program experience and provide projections of future program costs as well as offer recommendations regarding funding mechanisms.

The Commission Should Provide Information on the Medicaid Program to Low-Income AccessWV Applicants

In the course of this review, the Legislative Auditor's staff determined that while the application form for the AccessWV Program instructs staff to determine each applicant's eligibility for other government programs, there is no formal process to determine eligibility or to provide information to applicants regarding other programs for which they may be eligible. The executive director of the Program stated that AccessWV staff does not have the ability to determine Medicaid eligibility:

Clearly, it is necessary to ensure that no one who is eligible for Medicaid enrolls in the AccessWV Program, which requires the payment of monthly premiums ranging between \$179 and \$3,077.

AccessWV does not assess Medicaid eligibility. Eligibility for Medicaid is based on a complexity of income and asset rules, and an assessment of eligibility is outside the scope of AccessWV's expertise.

Clearly, it is necessary to ensure that no one who is eligible for Medicaid enrolls in the AccessWV Program, which requires the payment of monthly premiums ranging between \$179 and \$3,077. The program also includes the payment of an annual deductible of at least \$400. These would be substantial costs for a low-income individual. It would be an unnecessary financial burden to place on someone who is eligible for the Medicaid Program. While the likelihood that such individuals have been enrolled in the AccessWV Program is remote, it is possible.

The Legislative Auditor's staff had considered drawing a sample of applicants for the AccessWV Program in order to determine if any were eligible for the Medicaid Program. After reviewing the AccessWV application form and discussing the matter with program staff, it became clear that the AccessWV application form does not contain adequate information to determine Medicaid eligibility, since it was not designed for that purpose. For example, the AccessWV Program application form does not ask for the value of assets owned by program applicants. Limits on assets owned by program applicants is an important consideration for benefits under the Medicaid Program.

The Insurance Commission should provide an informational brochure on the Medicaid Program to all AccessWV applicants that outlines Medicaid eligibility requirements. This would ensure that low-income AccessWV applicants know to contact the DHHR for Medicaid eligibility determination.

Conclusion

The AccessWV Program is funded through participants' premiums and a 0.025% assessment on hospitals' gross revenues. The Insurance Commission projects that the program will begin operating with a budget deficit in CY 2008 and a fund deficit by the end of CY 2011. AccessWV is also projected to end CY 2008 with 729 policies in effect and end CY 2011 with 1,375 policies in effect. Enrollment projections are not based on long-term empirical data and are merely considered best guess estimates. Maryland is the only other state that offers high risk pool insurance and relies exclusively on participants' premiums and hospital assessments to fund the program. Maryland assesses hospitals at a substantially higher rate (0.73%). The Legislative Auditor recommends that the Legislature consider a cap as an option since there is no long-term operating history for the AccessWV Program and, therefore, a lack of data to indicate trends in future enrollment. The Commission should complete an updated financial plan during CY 2007 for the purpose of long-term planning. The Commission should also provide an informational brochure on the Medicaid Program to AccessWV Program applicants to ensure that Medicaid eligible individuals do not accidentally enroll in the AccessWV Program.

Recommendations

1. *For the purposes of long-term planning, the Legislature should consider capping enrollment in the AccessWV Program as an option since the Commission has no hard data that can reliably predict future growth in enrollment.*
2. *The Insurance Commission should return to the Legislature in 2007 with an updated financial plan that will reflect actual program experience and provide projections of future program costs as well as offer recommendations regarding funding mechanisms.*
3. *The Insurance Commission should provide an informational brochure on the Medicaid Program to all AccessWV applicants that outlines Medicaid eligibility requirements.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

December 8, 2006

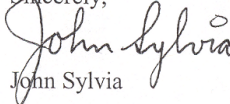
Ms. Jane L. Cline, Insurance Commissioner
West Virginia Office Of The Insurance Commissioner
1124 Smith Street P.O. Box 50540
Charleston, WV 25305-0540

Dear Commissioner Cline:

This is to transmit a draft copy of the Full Performance Evaluation of the Insurance Commission. This report is scheduled to be presented during the January 7-9, 2007 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We would like to schedule an exit conference with you to discuss any concerns you may have with the report. We would like to have the meeting on December 14 or December 15. Please notify us to schedule an exact time. We need your written response by noon on Friday, December 22, 2006 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, December 28, 2006 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

John Sylvia

c: Alfreda Dempkowski, Executive Director

JS/bb

Enclosure

Joint Committee on Government and Finance

Appendix B: Agency Response



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

JOE MANCHIN III
Governor

JANE L. CLINE
Insurance Commissioner

December 21, 2006

John Sylvia
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

RECEIVED
DEC 22 2006

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Dear Mr. Sylvia:

Thank you very much for the opportunity to review the draft copy of the Full Performance Evaluation of the Insurance Commission. We were pleased to have the opportunity to provide comments to Russell Kitchen and Brandon Burton during the exit conference and via a follow-up e-mail. These comments are attached for inclusion in the final report.

We would like to compliment the Legislative staff for their diligent and thoughtful work in evaluating AccessWV. We are aware of the complexities presented by high risk pools in general and AccessWV in particular, and we believe the Report presents a clear statement of the current status of AccessWV and the issues surrounding high risk pools. The discussion of the financing mechanisms used in other states is particularly informative.

If you have any questions, please have your staff contact Alfreda Dempkowski, Executive Director AccessWV, at (304) 558-1966 ext. 3085

Sincerely,


Jane L. Cline
Commissioner

JLC/ew

Enclosure

Executive Office
Post Office Box 50540
Charleston, West Virginia 25305-0540

"We are an Equal Opportunity Employer"



Telephone 304.558.335
Facsimile 304.558.041
www.wvinsurance.gov

**Written Response to Draft of
Full Performance Evaluation of the Insurance Commission (12/8/06)**

Updated Financial Plan. The attached Financial Plan was recently updated by our Actuary. It considers three scenarios:

- Status quo: Premiums continue to be set at 140 percent of the standard rate (the level since July 2006) and growth continues at an average of 18 policies (net) a month.
- Premiums set at the minimum allowable by the law (125 percent of the standard rate). This would make what is inherently an expensive program somewhat more affordable to some additional persons. Under this scenario, enrollment is projected to grow at 25 policies a month (net).
- Intermediate scenario: Premiums are set at 135 percent of the standard rate with the program experiencing a net gain of 20 policies monthly.

Enrollment Report as of December 2006

Specific Comments on Draft

Page 2, under "AccessWV Provides Healthcare Coverage to Residents Who Are Unable to Purchase Coverage through the Regular Market", second paragraph, second sentence.

Statement: The program's goal is to have 100% of residents covered by health insurance.

Comment: AccessWV's mission is to serve those drawn from a small subpopulation of West Virginians—those who are unable to purchase coverage in the regular market due to medical conditions.

Page 2 under "AccessWV Provides Healthcare Coverage to Residents Who Are Unable to Purchase Coverage through the Regular Market", second paragraph, last sentence.

Statement: In AccessWV's first 5 months, only 128 people participated in the program.

Suggested Addition to end of sentence: "since the Board of Directors has intentionally grown the Plan slowly pending identification of a stable source of ongoing financing."

p. 10 Recommendations #1

We would suggest a rewording as follows:

Because of the difficulty of reliably predicting future enrollment growth, the Legislature should charge the Board of Directors with maintaining enrollment at a level that will keep the Plan actuarially sound given the available financing, which includes premiums, external financing as arranged by the Legislature, and other sources that may become available.

p. 10 Recommendation #3.

Comment: Because of the premium expense for AccessWV, screening AccessWV applicants for potential Medicaid eligibility would be expected to yield very little.

An alternative for reaching out to Medicaid eligibles might be to include a brochure on Medicaid eligibility in the applications kits that are mailed to persons inquiring about AccessWV. Many of these people never return the applications because they cannot afford the program; and some may be Medicaid eligible. This "outreach" could be implemented immediately.