H. B. 3063

(By Delegate Miller)

[Introduced March 22, 2013; referred to the Committee on Health and Human Resources then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-4F-1, §9-4F-2, §9-4F-3, §9-4F-4, §9-4F-5, §9-4F-6, §9-4F-7, §9-4F-8, §9-4F-9, §9-4F-10 and §9-4F-11, all relating to improving program integrity for Medicaid and the Children's Health Insurance Program by implementing waste, fraud and abuse prevention, detection and recovery; legislative intent; definitions; data verification and provider screening technology solutions; state-of-the-art clinical code editing technology; state-of-the-art predictive modeling and analytics technologies; implementation of fraud investigative services combining retrospective claims analysis and prospective waste, fraud or abuse detection; implementation of Medicaid and Children's Health Insurance Program claims audit and recovery services; contracting with or using contractor selection process with

1 information from the Cooperative Purchasing Network; providing
2 contract entities with appropriate access to claims and other
3 data; and reports required filed with the Legislature.
4 *Be it enacted by the Legislature of West Virginia:*
5 That the Code of West Virginia, 1931, as amended, be amended
6 by adding thereto a new article, designated §9-4F-1, §9-4F-2, §9-
7 4F-3, §9-4F-4, §9-4F-5, §9-4F-6, §9-4F-7, §9-4F-8, §9-4F-9, §9-4F-
8 10 and §9-4F-11, all to read as follows:
9 **ARTICLE 4F. MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM**
10 **SAVINGS ACT.**
11 **§9-4F-1. Legislative intent.**
12 It is the intent of the Legislature to implement waste, fraud
13 and abuse detection, prevention and recovery solutions to:
14 (a) Improve program integrity for the Medicaid and the
15 Children's Health Insurance Program in the state and create
16 efficiency and cost savings through a shift from a retrospective
17 "pay and chase" model to a prospective prepayment model; and
18 (b) Comply with program integrity provisions of the federal
19 Patient Protection and Affordable Care Act and the Health Care and
20 Education Reconciliation Act of 2010, as promulgated in the Centers
21 for Medicare and Medicaid Services Final Rule 6028.
22 It is the further intent of the Legislature that the savings
23 achieved through this article shall more than cover the costs of

1 implementation. Therefore, to the extent possible, technology
2 services used in carrying out the provisions of this article shall
3 be secured using a shared savings model, whereby the state's only
4 direct cost will be a percentage of actual savings achieved.
5 Further, to enable this model, a percentage of achieved savings may
6 be used to fund expenditures under the provisions of this article.
7 **§9-4F-2. Definitions.**
8 The definitions in this section apply throughout this article
9 unless the context clearly requires otherwise.
10 (a) "CHIP" means the Children's Health Insurance Program
11 established under Title XXI of the Social Security Act (42 U.S.C.
12 1397aa et seq.).
13 (b) "Enrollee" means an individual who is eligible to receive
14 benefits and is enrolled in either the Medicaid or CHIP programs.
15 (c) "Medicaid" means the program to provide grants to states
16 for medical assistance programs established under Title XIX of the
17 Social Security Act (42 U.S.C. 1396 et seq.).
18 (d) "Secretary" means the U.S. Secretary of Health and Human
19 Services, acting through the Administrator of the Centers for
20 Medicare and Medicaid Services.
21 **§9-4F-3. Medicaid and West Virginia Children's Health Insurance**
22 **Program.**
23 This article specifically applies to:

(1) State Medicaid managed care programs operated under this chapter;

(2) State Medicaid programs operated under this chapter; and

(3) The West Virginia Children's Health Insurance Program (CHIP program) operated under the provisions of article sixteen-b, chapter five of this code.

§9-4F-4. Implementation of provider data verification and screening technology solutions.

The state shall implement provider data verification and provider screening technology solutions to check healthcare billing and provider rendering data against a continually maintained provider information database for the purposes of automating reviews and identifying and preventing inappropriate payments to:

(a) Deceased providers;

(b) Sanctioned providers;

(c) License expiration, retired providers or both; and

(d) Confirmed wrong addresses.

§9-4F-5. Implementation of state-of-the-art clinical code editing technology.

The state shall implement state-of-the-art clinical code editing technology solutions to further automate claims resolution and enhance cost containment through improved claim accuracy and appropriate code correction. The technology shall identify and

prevent errors or potential over billing based on widely accepted and transparent protocols such as the American Medical Association and the Centers for Medicare and Medicaid Services. The edits shall be applied automatically before claims are adjudicated to speed processing and reduce the number of pending or rejected claims and help ensure a smoother, more consistent and more transparent adjudication process and fewer delays in provider reimbursement.

§9-4F-6. Implementation of state-of-the-art predictive modeling and analytics technology.

The state shall implement state-of-the-art predictive modeling and analytics technologies to provide a more comprehensive and accurate view across all providers, beneficiaries and geographies within the Medicaid and CHIP programs in order to:

(a) Identify and analyze those billing or utilization patterns that represent a high risk of fraudulent activity;

(b) Be integrated into the existing Medicaid and CHIP claims workflow;

(c) Undertake and automate such analysis before payment is made to minimize disruptions to the workflow and speed claim resolution;

(d) Prioritize such identified transactions for additional review before payment is made based on likelihood of potential waste, fraud or abuse;

1 (e) Capture outcome information from adjudicated claims to
2 allow for refinement and enhancement of the predictive analytics
3 technologies based on historical data and algorithms within the
4 system; and

5 (f) Prevent the payment of claims for reimbursement that have
6 been identified as potentially wasteful, fraudulent or abusive
7 until the claims have been automatically verified as valid.

8 **§9-4F-7. Implementation of fraud investigative services.**

9 The state shall implement fraud investigative services that
10 combine retrospective claims analysis and prospective waste, fraud
11 or abuse detection techniques. These services shall include
12 analysis of historical claims data, medical records, suspect
13 provider databases and high-risk identification lists, as well as
14 direct patient and provider interviews. Emphasis shall be placed
15 on providing education to providers and ensuring that they have the
16 opportunity to review and correct any problems identified prior to
17 adjudication.

18 **§9-4F-8. Implementation of state-of-the-art clinical code editing**
19 **technology.**

20 The state shall implement Medicaid and CHIP claims audit and
21 recovery services to identify improper payments due to
22 nonfraudulent issues, audit claims, obtain provider sign-off on the
23 audit results and recover validated overpayments. Post payment

reviews shall ensure that the diagnoses and procedure codes are accurate and valid based on the supporting physician documentation within the medical records. Core categories of reviews could include: Coding Compliance Diagnosis Related Group (DRG) Reviews, Transfers, Readmissions, Cost Outlier Reviews, Outpatient 72-Hour Rule Reviews, payment errors, billing errors and others.

§9-4F-9. Contractor selection process.

To implement this article, the state shall either contract with The Cooperative Purchasing Network (TCPN) to issue a request for proposals (RFP) to select a contractor or use the following contractor selection process:

(a) Not later than July 1, 2013, the state shall issue a request for information (RFI) to seek input from potential contractors on capabilities and cost structures associated with the scope of work of this article. The results of the RFI shall be used by the state to create a formal request for proposals (RFP) to be issued within ninety days of the closing date of the RFI.

(b) No later than ninety days after the close of the RFI, the state shall issue a formal RFP to carry out the provisions of this article during the first year of implementation. To the extent appropriate, the state may include subsequent implementation years and may issue additional requests for proposals with respect to subsequent implementation years.

(c) The state shall select contractors to carry out the

1 provisions of this article using competitive procedures as provided
2 in article three, chapter five-a of this code.
3 (d) The state may enter into a contract under the provisions
4 of this article with an entity only if the entity:
5 (1) Can demonstrate appropriate technical, analytical and
6 clinical knowledge and experience to carry out the functions
7 included in this article; or
8 (2) Has a contract, or will enter into a contract, with
9 another entity that meets the above criteria.
10 (e) The state may only enter into a contract under the
11 provisions of this article with an entity to the extent the entity
12 complies with conflict of interest standards in article three,
13 chapter five-a of this code.
14 **§9-4F-10. Contractor access to claims and other data.**
15 The state shall provide entities with a contract under the
16 provisions of this article with appropriate access to claims and
17 other data necessary for the entity to carry out the functions
18 included in this article. This includes, but is not limited to,
19 providing current and historical Medicaid and CHIP claims and
20 provider database information; and taking necessary regulatory
21 action to facilitate appropriate public-private data sharing,
22 including across multiple Medicaid managed care entities.
23 **§9-4F-11. Reports required to be filed.**
24 The following reports shall be completed by the Secretary of

1 the Department of Health and Human Resources and the Director of
2 the Children's Health Insurance Agency:
3 (a) Not later than three months after the completion of the
4 first implementation year under this article, the Secretary of the
5 Department of Health and Human Resources and the Director of the
6 Children's Health Insurance Agency shall submit to the Governor and
7 the Legislature and make available to the public a report that
8 includes the following:
9 (1) A description of the implementation and use of
10 technologies included in this article during the year;
11 (2) A certification by the Secretary of the Department of
12 Health and Human Resources and the Director of the Children's
13 Health Insurance Agency that specifies the actual and projected
14 savings to the Medicaid and CHIP programs as a result of the use of
15 these technologies, including estimates of the amounts of such
16 savings with respect to both improper payments recovered and
17 improper payments avoided;
18 (3) The actual and projected savings to the Medicaid and CHIP
19 programs as a result of such use of technologies relative to the
20 return on investment for the use of such technologies and in
21 comparison to other strategies or technologies used to prevent and
22 detect fraud, waste and abuse;
23 (4) Any modifications or refinements that should be made to
24 increase the amount of actual or projected savings or mitigate any

1 adverse impact on Medicare beneficiaries or providers;

2 (5) An analysis of the extent to which the use of these
3 technologies successfully prevented and detected waste, fraud or
4 abuse in the Medicaid and CHIP programs;

5 (6) A review of whether the technologies affected access to,
6 or the quality of, items furnished and services to Medicaid and
7 CHIP beneficiaries; and

8 (7) A review of what effect if any, the use of these
9 technologies had on Medicaid and CHIP providers, including
10 assessment of provider education efforts and documentation of
11 processes for providers to review and correct problems that are
12 identified.

13 (b) Not later than three months after the completion of the
14 second implementation year under the provisions of this article the
15 Secretary of the Department of Health and Human Resources and the
16 Director of the Children's Health Insurance Agency shall submit to
17 the Governor and the Legislature and make available to the public
18 a report that includes, with respect to that year; the items
19 required under subsection (a) of this section as well as any other
20 additional items determined appropriate with respect to the report
21 for that year.

22 (c) Not later than three months after the completion of the
23 third implementation year under the provisions of this article, the
24 Secretary of the Department of Health and Human Resources and the

1 Director of the Children's Health Insurance Agency shall submit to
2 the Governor and the Legislature, and make available to the public,
3 a report that includes with respect to that year the items required
4 under subsection (a) of this section, as well as any other
5 additional items determined appropriate with respect to the report
6 for that year.

NOTE: The purpose of this bill is to improve program integrity for the state's Medicaid and Children's Health Insurance Program by implementing waste, fraud and abuse, prevention detection and recovery. It provides legislative intent and definitions. The bill provides for data verification and provider screening technology solutions, state-of-the-art clinical code editing technology, state-of-the-art predictive modeling and analytics technologies and implementation of fraud investigative services combining retrospective claims analysis and prospective waste, fraud or abuse detection. It further provides for implementation of Medicaid and Children's Health Insurance Program claims audit and recovery services. It requires contracting with or using contractor selection process with information from the Cooperative Purchasing Network. The bill requires that contract entities be provided with appropriate access to claims and other data, and the bill requires the Secretary of the Department of Health and Human Services and the Director of the Children's Health Insurance Agency to file reports with the Legislature.

This article is new; therefore, it has been completely underscored.