

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 716**

SENATORS TAKUBO AND STOLLINGS, *original sponsors*

[Originating in the Committee on Health and Human  
Resources; reported on February 12, 2020]

1 A BILL to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring Department of Health and Human Resources to make payment for tubal  
3 ligation without requiring at least 30 days between the date of informed consent and date  
4 of the tubal ligation procedure.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-12. Medicaid program; maternity and infant care.**

1 (a) The Legislature finds that high rates of infant mortality and morbidity are costly to the  
2 state in terms of human suffering and of expenditures for long-term institutionalization, special  
3 education, and medical care. It is well documented that appropriate care during pregnancy and  
4 delivery can prevent many of the expensive, disabling problems our children experience. There  
5 exists a crisis in this state relating to the availability of obstetrical services, particularly to patients  
6 in rural areas, and to the cost patients must pay for obstetrical services. The availability of  
7 obstetrical service for Medicaid patients enables these patients to receive quality medical care  
8 and to give birth to healthier babies and, consequently, improve the health status of the next  
9 generation.

10 The Legislature further recognizes that public and private insurance mechanisms remain  
11 inadequate, and poor and middle-income women and children are among the most likely to be  
12 without insurance. Generally, low-income, uninsured children receive half as much health care as  
13 their insured counterparts. The state is now investing millions to care for sick infants whose deaths  
14 and disabilities could have been avoided.

15 It is the intent of the Legislature that the Department of Health and Human Resources  
16 participate in the Medicaid program for indigent children and pregnant women established by  
17 Congress under the Consolidated Omnibus Budget Reconciliation Act (COBRA), Public Law 99-  
18 272, the Sixth Omnibus Budget Reconciliation Act (SOBRA), Public Law 99-504, and the  
19 Omnibus Budget Reconciliation Act (OBRA), Public Law 100-203.

20 (b) The department shall:

21 (1) Extend Medicaid coverage to pregnant women and their newborn infants to 185  
22 percent of the federal poverty level and to provide coverage up to 60 days postpartum care,  
23 effective July 1, 2019, or as soon as federal approval has occurred.

24 (2) As provided under COBRA, SOBRA, and OBRA, effective July 1, 1988, infants shall  
25 be included under Medicaid coverage with all children eligible for Medicaid coverage born after  
26 October 1, 1983, whose family incomes are at or below 100 percent of the federal poverty level  
27 and continuing until such children reach the age of eight years.

28 (3) Elect the federal options provided under COBRA, SOBRA, and OBRA impacting  
29 pregnant women and children below the poverty level: *Provided*, That no provision in this article  
30 shall restrict the department in exercising new options provided by or to be in compliance with  
31 new federal legislation that further expands eligibility for children and pregnant women.

32 (4) The department ~~shall be~~ is responsible for the implementation and program design for  
33 a maternal and infant health care system to reduce infant mortality in West Virginia. The health  
34 system design shall include quality assurance measures, case management, and patient  
35 outreach activities. The department shall assume responsibility for claims processing in  
36 accordance with established fee schedules and financial aspects of the program necessary to  
37 receive available federal dollars and to meet federal rules and regulations.

38 (5) Beginning July 1, 1988, the department shall increase to no less than \$600 the  
39 reimbursement rates under the Medicaid program for prenatal care, delivery, and post-partum  
40 care.

41 (c) In order to be in compliance with the provisions of OBRA through rules and regulations,  
42 the department shall ensure that pregnant women and children whose incomes are above the Aid  
43 to Families and Dependent Children (AFDC) payment level are not required to apply for  
44 entitlements under the AFDC program as a condition of eligibility for Medicaid coverage. Further,  
45 the department shall develop a short, simplified pregnancy/pediatric application of no more than

46 three pages, paralleling the simplified OBRA standards.

47 (d) Any woman who establishes eligibility under this section shall continue to be treated  
48 as an eligible individual without regard to any change in income of the family of which she is a  
49 member until the end of the 60-day period beginning on the last day of her pregnancy.

50 (e) ~~No later than July 1, 2016, the department shall seek a waiver of the requirements that~~  
51 ~~all women seek 30-day approval from the federal Center for Medicare and Medicaid Services~~  
52 ~~prior to receiving a tubal ligation~~ The department shall make payment for tubal ligation without  
53 requiring at least 30 days between the date of informed consent and the date of the tubal ligation  
54 procedure.

NOTE: The purpose of this bill is to allow the Department of Health and Human Resources to pay for tubal ligation without requiring at least 30 days between the date of informed consent and the date of the tubal ligation procedure so that tubal ligation can be performed at the time of delivery.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.