

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 672

BY SENATORS PHILLIPS AND BEACH

[Introduced March 19, 2021; referred
to the Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §9-5-28, relating to requiring Medicaid managed care organizations to use an
3 open network of laboratory providers; establishing findings; and requiring open network
4 laboratories adhere to the same conditions as any other contracted laboratory.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-28 Findings; open lab network conditions.

1 (a) Legislative Findings:

2 (1) The legislature declares it is in the best interest of the state and Medicaid recipients to
3 have sufficient in-state laboratory infrastructure in our state; and

4 (2) During the COVID-19 Pandemic, the state's ability to test for the disease and obtain
5 prompt test results was severely hampered by the lack of laboratory capacity in the state; and

6 (3) Evidence accumulated during the current opioid epidemic demonstrates that providers
7 treating West Virginia citizens suffering from substance use disorder receive critical drug
8 screening results more quickly from in-state testing labs; and

9 (4) The state should use its purchasing power to assure that the laboratory infrastructure
10 in the state is expanded and maintained.

11 (b) Effective July 1, 2021, any new Medicaid managed care contract, contract extension,
12 or contract amendment shall provide for an open network of in-state lab providers. For purposes
13 of this subsection, "open network" means that a managed care organization must admit into its
14 network all CLIA-certified labs, including, but not limited to, reference labs, hospital-based labs,
15 and physician-owned labs, which labs have its primary physical location and principal place of
16 business in West Virginia.

17 (c) Any in-state lab provider desiring to participate in a Medicaid managed care contract
18 must be willing to meet the same terms and conditions and accept the same reimbursement rates
19 as any other contracted lab provider: *Provided*, That the terms and conditions, and reimbursement

20 rates, between the managed care organization and the in-state lab provider may not be any less
21 favorable than the most favorable terms and conditions and reimbursement rates in the managed
22 care organization's network agreement.

23 (d) Nothing in this act shall be construed to limit a managed care company from utilizing
24 medically appropriate standards and utilization review processes: *Provided*, That such processes
25 are not designed to disadvantage in-state labs: *Provided, however*, That, absent a formal, and
26 credible claim of fraud, waste or abuse against the provider, such standards and utilization review
27 processes may not be cited as reason to remove any services from any in-state laboratory.

28 (e) Any laboratory participating in the open network shall agree to cooperate and prioritize
29 the processing of lab specimens resulting from a health emergency declared by the state health
30 officer or the governor.

NOTE: The purpose of this bill is to require new Medicare managed care contracts utilize an open network for laboratory services.

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