



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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12/16/2016 11:18:24 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 1)

AGENCY **Health Care Authority**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **65-31**
RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

DATE EMERGENCY RULE WAS ORIGINALLY FILED

Tuesday, June 07, 2016

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE

DATE OF FIRST EMERGENCY AMENDMENT

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 65-31



Rule Id: 10150



Document: 33153



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FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 2)

AGENCY **Health Care Authority**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **65-31**
RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE AS FOLLOWS:

HB 4365 mandated the Health Care Authority to promulgate emergency rules by December 31, 2016 to implement the provisions of this legislation. §16-2D-4(b) This rule is one of several rules required by this section. The amendments to the rule reflect modifications made by the LRMC.

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 1)

AGENCY Health Care Authority

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 65-31

RULE NAME Hospital Assistance Grant Program

CITE AUTHORITY 16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)

PRIMARY CONTACT

Cynthia Dellinger
100 Dee Drive

Charleston, STATE ZIP

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 2)

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RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

DATE OF FILING
Friday, December 16, 2016

STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE
§16-2D-4(a)(3)

DATE OF FILING OF PROPOSED LEGISLATIVE RULE
Tuesday, June 07, 2016

DOES THE EMERGENCY RULE ADOPT NEW LANGUAGE OR DOES IT AMEND OR APPEAL A
CURRENT LEGISLATIVE RULE?

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED?
No

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE
EMERGENCY RULE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE,
HEALTH, SAFETY OR WELFARE.

See below

**Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 3)

AGENCY **Health Care Authority**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **65-31**
RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

IF THE EMERGENCY RULE WAS PROMULGATED IN ORDER TO COMPLY WITH A TIME LIMIT ESTABLISHED BY THE CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN.

16-2D-4(b) directs the Authority to file emergency rules by December 31, 2016 to implement the provisions of HV 4365

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE EMERGENCY RULE NECESSARY TO PREVENT SUBSTANTIAL HARM TO THE PUBLIC INTEREST.

See above

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Health Care Authority**
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RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

PRIMARY CONTACT

Cynthia Dellinger
100 Dee Drive

Charleston, STATE ZIP

SECONDARY CONTACT

Janet Huffman
100 Dee Drive

Charleston, STATE SECONDARY ZIP SECONDARY

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Health Care Authority

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 65-31

RULE NAME Hospital Assistance Grant Program

CITE AUTHORITY 16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

there is no impact

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Health Care Authority**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **65-31**
RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

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RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

There are none

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Health Care Authority**
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RULE NAME **Hospital Assistance Grant Program**

CITE AUTHORITY **16-29B-8(a)(1),16-29B-11,16-2D-4(a)(3)**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

HB4365 directs the Authority to promulgate emergency rules prior to December 31, 2016 to implement the provisions of this legislation. This is one of several rules required by this legislation. The amendments reflect changes made by the LRMRC

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 65-31



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TITLE 65
LEGISLATIVE RULE
WV HEALTH CARE AUTHORITY

SERIES 31
HOSPITAL ASSISTANCE GRANT PROGRAM

§65-31-1. General.

1.1. Scope. -- This rule establishes the application, award and post award process for the Hospital Assistance Grant Program grants.

1.2. Authority. -- W. Va. Code §16-29B-8(a)(1), §16-29B-11, and §16-2D-4(a)(3).

1.3. Filing Date. --

1.4. Effective Date. --

§65-31-2. Definitions.

2.1. As used in this legislative rule, all terms that are defined in Section 2 of the statute have those same meanings which are in some cases further clarified in this section. Terms not defined in the statute have the following meanings unless the context expressly requires otherwise:

2.1.a. "Applicant" means a hospital located in West Virginia which applies for a grant pursuant to this rule and is responsible for the administration of the grant.

2.1.b. "Authority" means the West Virginia Health Care Authority, established by W. Va. Code §16-29B-5.

2.1.c. "Board" means the Board of the West Virginia Health Care Authority, as established by W. Va. Code §16-29B-5.

2.1.d. "Board Chair" means the chief administrative officer of the Board, as established by W. Va. Code §16-29B-5(b).

2.1.e. "Grant" means a grant made from the Authority's state special revenue funds approved by the Board to an applicant.

2.1.f. "Grant Award" means a signed document between the Board and the applicant pertaining to a grant and pursuant to Section 9 of this rule.

2.1.g. "Grant Period" means the time period from the beginning project date through the end of the project date and any extensions granted by the Board.

2.1.h. "Signature Authority" means the individual within the organization with the ability to enter into a legal document on behalf of the organization.

2.1.i. "State Fiscal Year" means the fiscal year for the State of West Virginia which is July 1 through June 30.

2.1.j. "Statement of Work" means a project description of a grant or loan.

2.1.k. "WVOASIS" means the State of West Virginia's accounting system.

§65-31-3. Grant Funding.

3.1 Grant funds will be administered from the Health Care Authority Special Revenue Fund, Hospital Assistance Grant Budget Bill line item, on an annual basis and based upon availability of funds each fiscal year. Funding per recipient is capped at \$50,000 per fiscal year pursuant to Section 4 of this rule, however, case by case basis may occur in which the Board may consider and approve funding in excess of the capped amount.

§65-31-4. Grant Scope.

4.1. Grants are available under the Hospital Assistance Fund Program. These funds may be awarded to financially vulnerable hospitals experiencing financial difficulties who need funding for expenses to prevent health services for patient care from becoming at risk or hospitals seeking funding for health information systems technology sharing.

§65-31-5. Grant Cycles.

5.1. Grant cycles will be awarded for a project period not to exceed twelve (12) months and must be awarded for a project period within the state fiscal year.

5.2. Grants will be awarded based upon the project period requested within the application. Due to the nature of the need, applications may be submitted at any time.

§65-31-6. Grant Eligibility.

6.1. The applicant must meet the definition as referenced in Section 2.1.

6.2. The applicant must be an enrolled West Virginia Medicaid provider, registered vendor with the state, and also registered with the West Virginia Secretary of State's Office. The applicant must not be on hold or debarred in WVOASIS as well as be in compliance with all State of West Virginia's policies, including not debarred from receiving grants from the West Virginia Department of Health and Human Resources or the West Virginia Legislature's State Agency Grant Award (SAGA) website. The applicant must also be current with all filings with the Authority.

§65-31-7. Administration.

7.1. The grants are administered by the Authority. Final approval shall be determined by the Board of the Authority.

§65-31-8. Application – Grant.

8.1. Any eligible applicant which desires to participate in the program shall make an application to the Board on the prescribed forms as published in the application package available on the web at www.hca.wv.gov, under “Grant Programs”.

8.2. Applications must include a description of the proposed project, a detailed project budget, properly executed and signed resolution authorizing the application, and all other documentation as prescribed in the grant application package. All required documentation must be signed by an authorized individual with signature authority from the applicant’s agency.

8.3. Grant applications must be received by the Authority in order to be considered. Grant applications can be received at any time and will be reviewed by the Board. See submission, award dates and other deadlines posted on the Authority’s website at www.hca.wv.gov, under “Grant Programs”.

8.4. The Authority may request such information as it deems necessary to evaluate any applications, including, but not limited to, financial and budgetary information related to the application.

8.5. Failure to provide the required application information, or failure to provide additional requested information by a specific date, in order to evaluate an application, may disqualify the application.

8.6. The Authority reserves the right to reject any application on the basis of amount of funding sought; to request the applicant revise an application to a different funding level; or to award more or less than the full amount requested in the application.

8.7. No applicant can receive more than \$50,000 per state fiscal year. Case by case basis may exist in which the Board has the authority to authorize annual awards above this amount.

8.8. Preference will be given to budget requests to purchase tangible items such as equipment, other capital expenditures, materials and supplies, contracts, etc. Funding for salaries and benefits will be limited to a short-term basis. On-going salary, benefits and fixed costs (such as rent, utilities, etc.) will not be considered for funding since it is not likely these expenditures can be sustained after the grant period. Grant monies cannot be budgeted and passed on to a third party. Title to equipment or buildings purchased with grant funds will remain with the Grantee unless otherwise noted in the award document.

8.9. Sustainability of how the project will continue after the grant funds are expended must be detailed, if applicable.

8.10. The applicant will be notified in writing within thirty (30) days of approval or denial of the grant or loan. Approval or disapproval will be determined by the Board.

§65-31-9. Grant Award.

9.1. The grant award may be issued for a maximum period up to twelve (12) months and will consist of a standard grant agreement which includes exhibits that are specialized for the award to outline statement of work, budget, payment methodology, no debt requirement, and required reports of the Grantee. The grant period must end by the end of the state fiscal year.

9.2. The grant award is not effective until both the Grantee and the Board Chair, or designee, has signed the agreement. A fully executed original copy of the award will then be mailed to the Grantee after finalized.

9.3. All project expenditures must occur within the grant period. The Board has the authority to approve a retroactive start date if necessary.

9.4. Expenditures above the award amount are the responsibility of the Grantee.

§65-31-10. Grant Payment Methodology.

10.1. Grants will be paid in accordance with the terms in the Grantee's grant agreement which may be one of two methods. Also, a final invoice must be submitted within thirty (30) days of the project end date to ensure payment.

10.2. Grant Methods.

10.2.a. Reimbursement may be monthly or quarterly and the Grantee is responsible for submitting the invoice on the prescribed form provided. The Grantee must submit reasonable documentation that the expenses were incurred for the period being invoiced. Example documentation may include copies of applicable general ledger sections, copies of checks, invoices reflecting payment, etc.

10.2.b. A schedule of payments is generally used when the Grantee does not have sufficient cash on hand to pay for the grant expenditures before they are reimbursed. Payment dates will be negotiated in the award process. The Grantee is responsible for invoicing the funds by submitting a request for reimbursement on their agency letterhead. If multiple payments are scheduled, the initial payment will be released as an advance, and the Grantee must provide a reconciliation and documentation that reflects that a significant portion of the prior installment has been spent before additional payments are released.

§65-31-11. Grant Change Orders.

11.1. Instances may occur in which the original grant agreement needs modified via a change order. The change order will be numbered in numerical order as approved (ex: 1, 2, 3, etc.) and will amend the original grant. All written requests must be made in advance and prior to the end of the grant period. The Authority will render its decision within ten (10) days of receipt of the request. An approved change order will be effective after both the Grantee and the Board Chair, or designee, has signed the change order. The Grantee will receive a copy of the fully executed change order after finalized. If not approved, the Grantee will be notified in writing within ten (10) days.

11.2. The following are examples of possible change orders requests:

11.2.a. Expenditures are expected to exceed any line item by 25% - Revision requests must be in writing detailing what line item will be decreased and which line items will increase. In addition, a revised budget must be attached. If a change in scope is also impacted, the revised statement of work must also be submitted.

11.2.b. Change in Scope - If the Grantee determines that program changes in scope are necessary, the Grantee must submit a request to modify project or scope. The letter must contain a description of the proposed changes and/or proposed budget revisions.

11.2.c. No cost extension – This request extends the grant period. The request must be made in writing by the Grantee and may be approved at the discretion of the Board. Extensions may be granted for a period up to sixty (60) days. Extensions will not be granted past the end of the state fiscal year.

§65-31-12. Grant Monitoring.

12.1. Review of invoices will serve as monitoring during the grant period. Additionally, if the grant is reimbursed on a schedule of payments, the grantee shall provide a financial progress report prior to the payment of any future installments. For those Grantees that do not receive intermittent payments, then the grant close out will serve as the monitoring tool and any noncompliance will be reported to the board.

§65-31-13. Grant Disallowed Costs and Unspent Funds.

13.1. If a Grantee does not spend funds in accordance with the scope or approved budget, the Authority shall request a reimbursement of the amount of the funds out of compliance. If appropriate and applicable, the Board may elect to retroactively approve a budget revision and statement of work in lieu of reimbursement of funds.

13.2. Schedule of payments that were drawn down by the Grantee but not spent must be returned during the thirty (30) day close out period at the request of the Authority pursuant to Section 14.

13.3. Amounts not invoiced and not paid will be cancelled from the grant award at close out.

13.4. Invoices that are paid on a reimbursement basis are validated and reviewed upon submission. The Grantee should not have invoices for expenditures not incurred.

13.5. Instances may occur in which the audit's qualifying expenses for the grant may be less than the amount invoiced or reconciled. The audited amount takes precedence and the Grantee will be required to reimburse the Authority the amount of the difference unless an acceptable justification can be provided.

§65-31-14. Grant Closeout.

14.1. All grants are closed out per the dates and terms of the grant. Invoice submission and reconciliations will serve as progress reports. Proper documentation per Section 11 must be submitted to validate the expenditures. Any combination of this information is acceptable as long as the documentation appears to be reasonable and validates the expenditures.

14.2. A final report is due within 30 days of the end of the grant period. The final report will include the following:

14.2.a. Final reconciliation if the grant was on a schedule of payments. If the grant was invoiced on a reimbursement basis, the last invoice serves as the final reconciliation.

14.2.b. A narrative detailing the outcome of the statement of work and the success of the project. Protected health information or personally identifiable information is not to be included in the narrative or any submission.

14.2.c. Instances may occur that require additional close out documents and these requirements will be outlined in the grant agreement.

14.3. If a final report deadline cannot be met, then an extension must be requested in writing to the Authority.

14.4. Grantees must comply with all sections of WV Code §12-4-14 as well as submit the following as outlined in the grant agreement:

14.4.a. If a Grantee received less than \$50,000 in total state grants in a state fiscal year, then a sworn statement of grant receipts and expenditures must be submitted.

14.4.b. If a Grantee received \$50,000 or more in total state grants in a state fiscal year, then the Grantee must file a report of the disbursement of the State grant funds as well as a sworn statement of grant receipts and expenditures. The report is an audit and is defined within the exhibits of the grant agreement.

14.4.c. Governmental entities are exempt from WV Code §12-4-14 but must still submit a sworn statement to the Authority.

14.4.d. Extensions cannot be granted pursuant to WV Code §12-4-14 that are outside of the timeframes per the code section.

14.5. Any Grantee failing to file a required report and/or sworn statement of the expenditures for the State grants within two years after the end of their fiscal year will be barred from subsequently receiving further state grants until the Grantee complies with its reporting responsibilities and is otherwise in compliance with the provision of 148CSR18, Accountability Requirements for State Funds and Grants.

14.6. Once all of the grant close out documents have been received and it has been determined that the grant activity complies with the award and in compliance with WV Code §12-4-14, a letter will be issued by the Authority to the Grantee closing out the grant.

§65-31-15. Board Authority.

15.1. The Board reserves the right to approve or deny any requests as it deems necessary in order to ensure the success of the grant and loan program.