

1 (2) "Director" means the Director of the Public Employees
2 Insurance Agency created by this article.

3 (3) "Employee" means any person, including an elected officer,
4 who works regularly full time in the service of the State of West
5 Virginia and, for the purpose of this article only, the term
6 "employee" also means any person, including an elected officer, who
7 works regularly full time in the service of a county board of
8 education; a county, city or town in the state; any separate
9 corporation or instrumentality established by one or more counties,
10 cities or towns, as permitted by law; any corporation or
11 instrumentality supported in most part by counties, cities or
12 towns; any public corporation charged by law with the performance
13 of a governmental function and whose jurisdiction is coextensive
14 with one or more counties, cities or towns; any comprehensive
15 community mental health center or comprehensive mental retardation
16 facility established, operated or licensed by the Secretary of
17 Health and Human Resources pursuant to section one, article two-a,
18 chapter twenty-seven of this code and which is supported in part by
19 state, county or municipal funds; any person who works regularly
20 full time in the service of the Higher Education Policy Commission,
21 the West Virginia Council for Community and Technical College
22 Education or a governing board, as defined in section two, article
23 one, chapter eighteen-b of this code; any person who works
24 regularly full time in the service of a combined city-county health

1 department created pursuant to article two, chapter sixteen of this
2 code; any person designated as a twenty-first Century Learner
3 Fellow pursuant to section eleven, article three, chapter eighteen-
4 a of this code; and any person who works as a long-term substitute
5 as defined in section one, article one, chapter eighteen-a of this
6 code in the service of a county board of education: *Provided, That*
7 a long-term substitute who is continuously employed for at least
8 one hundred thirty-three instructional days during an instructional
9 term, and until the end of that instructional term, is eligible for
10 the benefits provided in this article until September 1, following
11 that instructional term: *Provided, however, That* a long-term
12 substitute employed fewer than one hundred thirty-three
13 instructional days during an instructional term is eligible for the
14 benefits provided in this article only during such time as he or
15 she is actually employed as a long-term substitute. On and after
16 January 1, 1994, and upon election by a county board of education
17 to allow elected board members to participate in the Public
18 Employees Insurance Program pursuant to this article, any person
19 elected to a county board of education shall be considered to be an
20 "employee" during the term of office of the elected member. Upon
21 election by the state Board of Education to allow appointed board
22 members to participate in the Public Employees Insurance Program
23 pursuant to this article, any person appointed to the state Board
24 of Education is considered an "employee" during the term of office

1 of the appointed member: *Provided further,* That the elected member
2 of a county board of education and the appointed member of the
3 state Board of Education shall pay the entire cost of the premium
4 if he or she elects to be covered under this article. Any matters
5 of doubt as to who is an employee within the meaning of this
6 article shall be decided by the director.

7 On or after July 1, 1997, a person shall be considered an
8 "employee" if that person meets the following criteria:

9 (i) Participates in a job-sharing arrangement as defined in
10 section one, article one, chapter eighteen-a of this code;

11 (ii) Has been designated, in writing, by all other
12 participants in that job-sharing arrangement as the "employee" for
13 purposes of this section; and

14 (iii) Works at least one third of the time required for a
15 full-time employee.

16 (4) "Employer" means the State of West Virginia, its boards,
17 agencies, commissions, departments, institutions or spending units;
18 a county board of education; a county, city or town in the state;
19 any separate corporation or instrumentality established by one or
20 more counties, cities or towns, as permitted by law; any
21 corporation or instrumentality supported in most part by counties,
22 cities or towns; any public corporation charged by law with the
23 performance of a governmental function and whose jurisdiction is
24 coextensive with one or more counties, cities or towns; any

1 comprehensive community mental health center or comprehensive
2 mental retardation facility established, operated or licensed by
3 the Secretary of Health and Human Resources pursuant to section
4 one, article two-a, chapter twenty-seven of this code and which is
5 supported in part by state, county or municipal funds; a combined
6 city-county health department created pursuant to article two,
7 chapter sixteen of this code; and a corporation meeting the
8 description set forth in section three, article twelve, chapter
9 eighteen-b of this code that is employing a twenty-first Century
10 Learner Fellow pursuant to section eleven, article three, chapter
11 eighteen of this code but the corporation is not considered an
12 employer with respect to any employee other than a twenty-first
13 Century Learner Fellow. Any matters of doubt as to who is an
14 "employer" within the meaning of this article shall be decided by
15 the director. The term "employer" does not include within its
16 meaning the National Guard.

17 (5) "Finance board" means the Public Employees Insurance
18 Agency finance board created by this article.

19 (6) "Person" means any individual, company, association,
20 organization, corporation or other legal entity, including, but not
21 limited to, hospital, medical or dental service corporations;
22 health maintenance organizations or similar organization providing
23 prepaid health benefits; or individuals entitled to benefits under
24 the provisions of this article.

1 (7) "Plan", unless the context indicates otherwise, means the
2 medical indemnity plan, the managed care plan option or the group
3 life insurance plan offered by the agency.

4 (8) "Retired employee" means an employee of the state who
5 retired after April 29, 1971, and an employee of the Higher
6 Education Policy Commission, the Council for Community and
7 Technical College Education, a state institution of higher
8 education or a county board of education who retires on or after
9 April 21, 1972, and all additional eligible employees who retire on
10 or after the effective date of this article, meet the minimum
11 eligibility requirements for their respective state retirement
12 system and whose last employer immediately prior to retirement
13 under the state retirement system is a participating employer in
14 the state retirement system and in the Public Employees Insurance
15 Agency: *Provided*, That for the purposes of this article, the
16 employees who are not covered by a state retirement system, but who
17 are covered by a state-approved or state-contracted retirement
18 program or a system approved by the director, shall, in the case of
19 education employees, meet the minimum eligibility requirements of
20 the state Teachers Retirement System and in all other cases, meet
21 the minimum eligibility requirements of the Public Employees
22 Retirement System and may participate in the Public Employees
23 Insurance Agency as retired employees upon terms as the director
24 sets by rule as authorized in this article. Employers with

1 employees who are, or who are eligible to become, retired employees
2 under this article shall be mandatory participants in the Retiree
3 Health Benefit Trust Fund created pursuant to article sixteen-d of
4 this chapter. Nonstate employers may opt out of the West Virginia
5 other post-employment benefits plan of the Retiree Health Benefit
6 Trust Fund and elect to not provide benefits under the Public
7 Employees Insurance Agency to retirees of the nonstate employer,
8 but may do so only upon the written certification, under oath, of
9 an authorized officer of the employer that the employer has no
10 employees who are, or who are eligible to become, retired employees
11 and that the employer will defend and hold harmless the Public
12 Employees Insurance Agency from any claim by one of the employer's
13 past, present or future employees for eligibility to participate in
14 the Public Employees Insurance Agency as a retired employee. As a
15 matter of law, the Public Employees Insurance Agency shall not be
16 liable in any respect to provide plan benefits to a retired
17 employee of a nonstate employer which has opted out of the West
18 Virginia other post-employment benefits plan of the Retiree Health
19 Benefit Trust Fund pursuant to this section.

20 (9) "Medicare Advantage Prescription Drug Plan" means a plan
21 licensed by Centers for Medicare and Medicaid Services of the
22 federal government to provide both medical and prescription drug
23 benefits to Medicare recipients by a fee for service plan or
24 through a preferred provider organization.

NOTE: The purpose of this bill is to define the term "Medicare Advantage Prescription Drug Plan" in the Public Employees Insurance Act.

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