

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 384**

4 (By Senators Tucker, Stollings and Barnes)

5 _____
6 [Originating in the Committee on Banking and Insurance;
7 reported February 7, 2014.]

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11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §33-15-22; to amend
13 and reenact §33-16-3q of said code; to amend and reenact
14 §33-24-7h of said code; to amend and reenact §33-25-8f of said
15 code; and to amend and reenact §33-25A-8g of said code, all
16 relating generally to accident and sickness insurance, group
17 accident and sickness insurance, hospital service
18 corporations, medical service corporations, dental service
19 corporations, health service corporations, health care
20 corporations and health maintenance organizations; prohibiting
21 certain contracts of insurance from requiring subscribers to
22 obtain prescription drugs from a mail-order pharmacy in order
23 to obtain benefits for drugs; permitting a covered person to
24 fill any prescription at any mail-order pharmacy or network

1 participating nonmail-order pharmacy under certain
2 circumstances; prohibiting special copayments, fees or other
3 condition on any covered person who elects to purchase drugs
4 from a network participating nonmail-order pharmacy;
5 describing the scope of the prohibitions; and permitting
6 certain legislative rulemaking by the Insurance Commissioner.

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

8 That the Code of West Virginia, 1931, as amended, be amended
9 by adding thereto a new section, designated §33-15-22; that
10 §33-16-3q of said code be amended and reenacted; that §33-24-7h of
11 said code be amended and reenacted; that §33-25-8f of said code be
12 amended and reenacted; and that §33-25A-8g of said code be amended
13 and reenacted, all to read as follows:

14 **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

15 **§33-15-22. Required use of mail-order pharmacy prohibited.**

16 (a) An insurer issuing accident and sickness policies under
17 this article may not require any person covered under a contract
18 which provides coverage for prescription drugs to obtain the
19 prescription drugs from a mail-order pharmacy in order to obtain
20 benefits for the drugs. A covered person shall be permitted to fill
21 any prescription, at his or her option, at any mail-order pharmacy
22 or network participating nonmail-order pharmacy if the network
23 participating nonmail-order pharmacy offers to accept a price that
24 is comparable to that of the mail-order pharmacy. Any policy or

1 contract providing coverage for prescription drugs shall not impose
2 a copayment, fee or other condition on any covered person who
3 elects to purchase drugs from a network participating nonmail-order
4 pharmacy which is not also imposed on purchases from a mail-order
5 pharmacy.

6 (b) An insurer may not violate the provisions of subsection
7 (a) of this section through the use of an agent or contractor or
8 through the action of an administrator of prescription drug
9 benefits.

10 (c) The Insurance Commissioner may propose rules for
11 legislative approval in accordance with the provisions of article
12 three, chapter twenty-nine-a of this code to implement and enforce
13 the provisions of this section.

14 **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

15 **§33-16-3q. Required use of mail-order pharmacy prohibited.**

16 (a) An insurer issuing group accident and sickness policies in
17 this state pursuant to the provisions of this article may not
18 require any person covered under a contract which provides coverage
19 for prescription drugs to obtain the prescription drugs from a
20 mail-order pharmacy in order to obtain benefits for the drugs. A
21 covered person shall be permitted to fill any prescription, at his
22 or her option, at any mail-order pharmacy or network participating
23 nonmail-order pharmacy if the network participating nonmail-order
24 pharmacy offers to accept a price that is comparable to that of the

1 mail-order pharmacy. Any policy or contract providing coverage for
2 prescription drugs shall not impose a copayment, fee or other
3 condition on any covered person who elects to purchase drugs from
4 a network participating nonmail-order pharmacy which is not also
5 imposed on purchases from a mail-order pharmacy.

6 (b) An insurer may not violate the provisions of subsection
7 (a) of this section through the use of an agent or contractor or
8 through the action of an administrator of prescription drug
9 benefits.

10 (c) The Insurance Commissioner may propose rules for
11 legislative approval in accordance with the provisions of article
12 three, chapter twenty-nine-a of this code to implement and enforce
13 the provisions of this section.

14 **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE**
15 **CORPORATIONS, DENTAL SERVICE CORPORATIONS AND**
16 **HEALTH SERVICE CORPORATIONS.**

17 **§33-24-7h. Required use of mail-order pharmacy prohibited.**

18 (a) A corporation defined in section two of this article may
19 not require any person covered under a contract which provides
20 coverage for prescription drugs to obtain the prescription drugs
21 from a mail-order pharmacy in order to obtain benefits for the
22 drugs. A covered person shall be permitted to fill any
23 prescription, at his or her option, at any mail-order pharmacy or
24 network participating nonmail-order pharmacy if the network

1 participating nonmail-order pharmacy offers to accept a price that
2 is comparable to that of the mail-order pharmacy. Any policy or
3 contract providing coverage for prescription drugs shall not impose
4 a copayment, fee or other condition on any covered person who
5 elects to purchase drugs from a network participating nonmail-order
6 pharmacy which is not also imposed on purchases from a mail-order
7 pharmacy.

8 (b) A corporation may not violate the provisions of subsection
9 (a) of this section through the use of an agent or contractor or
10 through the action of an administrator of prescription drug
11 benefits.

12 (c) The Insurance Commissioner may propose rules for
13 legislative approval in accordance with the provisions of article
14 three, chapter twenty-nine-a of this code to implement and enforce
15 the provisions of this section.

16 **ARTICLE 25. HEALTH CARE CORPORATIONS.**

17 **§33-25-8f. Required use of mail-order pharmacy prohibited.**

18 (a) A ~~health care~~ corporation issuing a contract under the
19 provisions of this article may not require any person covered under
20 a contract which provides coverage for prescription drugs to obtain
21 the prescription drugs from a mail-order pharmacy in order to
22 obtain benefits for the drugs. A covered person shall be permitted
23 to fill any prescription, at his or her option, at any mail-order
24 pharmacy or network participating nonmail-order pharmacy if the

1 network participating nonmail-order pharmacy offers to accept a
2 price that is comparable to that of the mail-order pharmacy. Any
3 policy or contract providing coverage for prescription drugs shall
4 not impose a copayment, fee or other condition on any covered
5 person who elects to purchase drugs from a network participating
6 nonmail-order pharmacy which is not also imposed on purchases from
7 a mail-order pharmacy.

8 (b) A ~~health care~~ corporation may not violate the provisions
9 of subsection (a) of this section through the use of an agent or
10 contractor or through the action of an administrator of
11 prescription drug benefits.

12 (c) The Insurance Commissioner may propose rules for
13 legislative approval in accordance with the provisions of article
14 three, chapter twenty-nine-a of this code to implement and enforce
15 the provisions of this section.

16 **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

17 **§33-25A-8g. Required use of mail-order pharmacy prohibited.**

18 (a) A health maintenance organization issuing coverage in this
19 state pursuant to the provisions of this article may not require
20 any person covered under a contract which provides coverage for
21 prescription drugs to obtain the prescription drugs from a
22 mail-order pharmacy in order to obtain benefits for the drugs. A
23 covered person shall be permitted to fill any prescription, at his
24 or her option, at any mail-order pharmacy or network participating

1 nonmail-order pharmacy if the network participating nonmail-order
2 pharmacy offers to accept a price that is comparable to that of the
3 mail-order pharmacy. Any policy or contract providing coverage for
4 prescription drugs shall not impose a copayment, fee or other
5 condition on any covered person who elects to purchase drugs from
6 a network participating nonmail-order pharmacy which is not also
7 imposed on purchases from a mail-order pharmacy.

8 (b) A health maintenance organization may not violate the
9 provisions of subsection (a) of this section through the use of an
10 agent or contractor or through the action of an administrator of
11 prescription drug benefits.

12 (c) The Insurance Commissioner may propose rules for
13 legislative approval in accordance with the provisions of article
14 three, chapter twenty-nine-a of this code to implement and enforce
15 the provisions of this section.

(NOTE: The purpose of this bill is to prohibit certain insurers from requiring persons covered under an insurance contract to use a mail-order pharmacy.)

§33-15-22 is new; therefore, strike-throughs and underscoring have been omitted.

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