

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 384

(By Senators Tucker, Stollings and Barnes)

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

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-22; to amend and reenact §33-16-3q of said code; to amend and reenact §33-24-7h of said code; to amend and reenact §33-25-8f of said code; and to amend and reenact §33-25A-8g of said code, all relating generally to accident and sickness insurance, group accident and sickness insurance, hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations; prohibiting certain contracts of

insurance from requiring subscribers to obtain prescription drugs from a mail-order pharmacy in order to obtain benefits for drugs; permitting a covered person to fill any prescription at any mail-order pharmacy or network participating nonmail-order pharmacy under certain circumstances; prohibiting special copayments, fees or other condition on any covered person who elects to purchase drugs from a network participating nonmail-order pharmacy; describing the scope of the prohibitions; and permitting certain legislative rulemaking by the Insurance Commissioner.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

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

1 (a) An insurer issuing accident and sickness policies
2 under this article may not require any person covered under
3 a contract which provides coverage for prescription drugs to
4 obtain the prescription drugs from a mail-order pharmacy in
5 order to obtain benefits for the drugs. A covered person shall
6 be permitted to fill any prescription, at his or her option, at
7 any mail-order pharmacy or network participating
8 nonmail-order pharmacy if the network participating
9 nonmail-order pharmacy offers to accept a price that is
10 comparable to that of the mail-order pharmacy. Any policy
11 or contract providing coverage for prescription drugs shall
12 not impose a copayment, fee or other condition on any
13 covered person who elects to purchase drugs from a network
14 participating nonmail-order pharmacy which is not also
15 imposed on purchases from a mail-order pharmacy.

16 (b) An insurer may not violate the provisions of
17 subsection (a) of this section through the use of an agent or
18 contractor or through the action of an administrator of
19 prescription drug benefits.

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

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

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

1 (a) An insurer issuing group accident and sickness
2 policies in this state pursuant to the provisions of this article
3 may not require any person covered under a contract which
4 provides coverage for prescription drugs to obtain the
5 prescription drugs from a mail-order pharmacy in order to
6 obtain benefits for the drugs. A covered person shall be
7 permitted to fill any prescription, at his or her option, at any
8 mail-order pharmacy or network participating nonmail-order
9 pharmacy if the network participating nonmail-order
10 pharmacy offers to accept a price that is comparable to that
11 of the mail-order pharmacy. Any policy or contract providing
12 coverage for prescription drugs shall not impose a

13 copayment, fee or other condition on any covered person
14 who elects to purchase drugs from a network participating
15 nonmail-order pharmacy which is not also imposed on
16 purchases from a mail-order pharmacy.

17 (b) An insurer may not violate the provisions of
18 subsection (a) of this section through the use of an agent or
19 contractor or through the action of an administrator of
20 prescription drug benefits.

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

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

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

1 (a) A corporation defined in section two of this article
2 may not require any person covered under a contract which
3 provides coverage for prescription drugs to obtain the
4 prescription drugs from a mail-order pharmacy in order to
5 obtain benefits for the drugs. A covered person shall be
6 permitted to fill any prescription, at his or her option, at any
7 mail-order pharmacy or network participating nonmail-order
8 pharmacy if the network participating nonmail-order
9 pharmacy offers to accept a price that is comparable to that
10 of the mail-order pharmacy. Any policy or contract
11 providing coverage for prescription drugs shall not impose a
12 copayment, fee or other condition on any covered person
13 who elects to purchase drugs from a network participating
14 nonmail-order pharmacy which is not also imposed on
15 purchases from a mail-order pharmacy.

16 (b) A corporation may not violate the provisions of
17 subsection (a) of this section through the use of an agent or
18 contractor or through the action of an administrator of
19 prescription drug benefits.

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

ARTICLE 25. HEALTH CARE CORPORATIONS.

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

1 (a) A ~~health care~~ corporation issuing a contract under the
2 provisions of this article may not require any person covered
3 under a contract which provides coverage for prescription
4 drugs to obtain the prescription drugs from a mail-order
5 pharmacy in order to obtain benefits for the drugs. A covered
6 person shall be permitted to fill any prescription, at his or her
7 option, at any mail-order pharmacy or network participating
8 nonmail-order pharmacy if the network participating
9 nonmail-order pharmacy offers to accept a price that is
10 comparable to that of the mail-order pharmacy. Any policy
11 or contract providing coverage for prescription drugs shall
12 not impose a copayment, fee or other condition on any
13 covered person who elects to purchase drugs from a network

14 participating nonmail-order pharmacy which is not also
15 imposed on purchases from a mail-order pharmacy.

16 (b) A ~~health care~~ corporation may not violate the
17 provisions of subsection (a) of this section through the use of
18 an agent or contractor or through the action of an
19 administrator of prescription drug benefits.

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

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

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

1 (a) A health maintenance organization issuing coverage
2 in this state pursuant to the provisions of this article may not
3 require any person covered under a contract which provides
4 coverage for prescription drugs to obtain the prescription
5 drugs from a mail-order pharmacy in order to obtain benefits
6 for the drugs. A covered person shall be permitted to fill any

7 prescription, at his or her option, at any mail-order pharmacy
8 or network participating nonmail-order pharmacy if the
9 network participating nonmail-order pharmacy offers to
10 accept a price that is comparable to that of the mail-order
11 pharmacy. Any policy or contract providing coverage for
12 prescription drugs shall not impose a copayment, fee or other
13 condition on any covered person who elects to purchase
14 drugs from a network participating nonmail-order pharmacy
15 which is not also imposed on purchases from a mail-order
16 pharmacy.

17 (b) A health maintenance organization may not violate
18 the provisions of subsection (a) of this section through the
19 use of an agent or contractor or through the action of an
20 administrator of prescription drug benefits.

21 (c) The Insurance Commissioner may propose rules for
22 legislative approval in accordance with the provisions of
23 article three, chapter twenty-nine-a of this code to implement
24 and enforce 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.)