

COMMITTEE SUBSTITUTE

for

H. B. 2493

(BY DELEGATE(S) MCCUSKEY, WESTFALL,
ASHLEY, BATES, ELLINGTON, FRICH, HOUSEHOLDER,
PERDUE, SOBONYA, WALTERS AND ROHRBACH)

[Originating in the Committee on Health and Human Resources.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating to anti-cancer medications; providing accident and sickness insurance cover

anti-cancer medications; providing direct health care services that cover anti-cancer medications; prohibiting certain copayments, deductibles or coinsurance for orally administered anti-cancer medications; prohibiting certain acts to comply with the requirements; defining terms; providing an effective date; and allowing cost containment measures.

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 §33-15-4l; that said code be amended by adding thereto a new section, designated §33-16-3x; that said code be amended by adding thereto a new section, designated §33-24-7m; that said code be amended by adding thereto a new section, designated §33-25-8j; and that said code be amended by adding thereto a new section, designated §33-25A-8l, all to read as follows:

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4l. Deductibles, copayments and coinsurance for anti-cancer medications.

- 1 (a) Any accident and sickness insurance policy issued by an
- 2 insurer pursuant to this article that covers anti-cancer

3 medications that are injected or intravenously administered by
4 a health care provider and patient administered anti-cancer
5 medications, including, but not limited to, those medications
6 orally administered or self-injected, may not require a less
7 favorable basis for a copayment, deductible or coinsurance
8 amount for patient administered anti-cancer medications than it
9 requires for injected or intravenously administered anti-cancer
10 medications, regardless of the formulation or benefit category
11 determination by the policy or plan.

12 (b) An accident or sickness insurance policy may not comply
13 with subsection (a) of this section by:

14 (1) Increasing the copayment, deductible or coinsurance
15 amount required for injected or intravenously administered
16 anti-cancer medications that are covered under the policy or
17 plan; or

18 (2) Reclassifying benefits with respect to anti-cancer
19 medications.

20 (c) As used in this section, “anti-cancer medication” means
21 a FDA approved medication prescribed by a treating physician
22 who determines that the medication is medically necessary to

23 kill or slow the growth of cancerous cells in a manner consistent
24 with nationally accepted standards of practice.

25 (d) This section is effective for policy and plan years
26 beginning on or after January 1, 2016. This section applies to all
27 group accident and sickness insurance policies and plans subject
28 to this article that are delivered, executed, issued, amended,
29 adjusted or renewed in this state, on and after the effective date
30 of this section.

31 (e) Notwithstanding any other provision in this section to the
32 contrary, in the event that an insurer can demonstrate actuarially
33 to the Insurance Commissioner that its total costs for compliance
34 with this section will exceed or have exceeded two percent of the
35 total costs for all accident and sickness insurance coverage
36 issued by the insurer subject to this article in any experience
37 period, then the insurer may apply whatever cost containment
38 measures may be necessary to maintain costs below two percent
39 of the total costs for the coverage: *Provided*, That the cost
40 containment measures implemented are applicable only for the
41 plan year or experience period following approval of the request
42 to implement cost containment measures.

43 (f) For any enrollee that is enrolled in a catastrophic plan as
44 defined in Section 1302(e) of the Affordable Care Act or in a
45 plan that, but for this requirement, would be a High Deductible
46 Health Plan as defined in section 223(c)(2)(A) of the Internal
47 Revenue Code of 1986, and that, in connection with every
48 enrollment, opens and maintains for each enrollee a Health
49 Savings Account as that term is defined in section 223(d) of the
50 Internal Revenue Code of 1986, the cost-sharing limit outlined
51 in subsection (a) of this section shall be applicable only after the
52 minimum annual deductible specified in section 223(c)(2)(A) of
53 the Internal Revenue Code of 1986 is reached. In all other cases,
54 this limit shall be applicable at any point in the benefit design,
55 including before and after any applicable deductible is reached.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3x. Deductibles, copayments and coinsurance for anti-cancer medications.

1 (a) Any group accident and sickness insurance policy issued
2 by an insurer pursuant to this article that covers anti-cancer
3 medications that are injected or intravenously administered by
4 a health care provider and patient administered anti-cancer

5 medications, including, but not limited to, those medications
6 orally administered or self-injected, may not require a less
7 favorable basis for a copayment, deductible or coinsurance
8 amount for patient administered anti-cancer medications than it
9 requires for injected or intravenously administered anti-cancer
10 medications, regardless of the formulation or benefit category
11 determination by the policy or plan.

12 (b) A group accident and sickness insurance policy may not
13 comply with subsection (a) of this section by:

14 (1) Increasing the copayment, deductible or coinsurance
15 amount required for injected or intravenously administered
16 anti-cancer medications that are covered under the policy or
17 plan; or

18 (2) Reclassifying benefits with respect to anti-cancer
19 medications.

20 (c) As used in this section, “anti-cancer medication” means
21 a FDA approved medication prescribed by a treating physician
22 who determines that the medication is medically necessary to
23 kill or slow the growth of cancerous cells in a manner consistent
24 with nationally accepted standards of practice.

25 (d) This section is effective for policy and plan years
26 beginning on or after January 1, 2016. This section applies to all
27 group accident and sickness insurance policies and plans subject
28 to this article that are delivered, executed, issued, amended,
29 adjusted or renewed in this state, on and after the effective date
30 of this section.

31 (e) Notwithstanding any other provision in this section to the
32 contrary, in the event that an insurer can demonstrate actuarially
33 to the Insurance Commissioner that its total anticipated costs for
34 any plan to comply with this section will exceed or have
35 exceeded two percent of the total costs for such plan in any
36 experience period, then the insurer may apply whatever cost
37 containment measures may be necessary to maintain costs below
38 two percent of the total costs for the plan: *Provided*, That such
39 cost containment measures implemented are applicable only for
40 the plan year following approval of the request to implement
41 cost containment measures.

42 (f) For any enrollee that is enrolled in a catastrophic plan as
43 defined in Section 1302(e) of the Affordable Care Act or in a
44 plan that, but for this requirement, would be a High Deductible

45 Health Plan as defined in section 223(c)(2)(A) of the Internal
46 Revenue Code of 1986, and that, in connection with every
47 enrollment, opens and maintains for each enrollee a Health
48 Savings Account as that term is defined in section 223(d) of the
49 Internal Revenue Code of 1986, the cost-sharing limit outlined
50 in subsection (a) of this section shall be applicable only after the
51 minimum annual deductible specified in section 223(c)(2)(A) of
52 the Internal Revenue Code of 1986 is reached. In all other cases,
53 this limit shall be applicable at any point in the benefit design,
54 including before and after any applicable deductible is reached.

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

**§33-24-7m. Deductibles, copayments and coinsurance for
anti-cancer medications.**

1 (a) Notwithstanding any provision of any policy, provision,
2 contract, plan or agreement to which this article applies, any
3 group accident and sickness insurance policy, plan, contract or
4 agreement issued by an entity regulated by this article that
5 covers anti-cancer medications that are injected or intravenously
6 administered by a health care provider and patient administered

7 anti-cancer medications, including, but not limited to, those
8 medications orally administered or self-injected, may not require
9 a less favorable basis for a copayment, deductible or coinsurance
10 amount for patient administered anti-cancer medications than it
11 requires for injected or intravenously administered anti-cancer
12 medications, regardless of the formulation or benefit category
13 determination by the policy or plan.

14 (b) An accident or sickness insurance policy, plan, contract
15 or agreement may not comply with subsection (a) of this section
16 by:

17 (1) Increasing the copayment, deductible or coinsurance
18 amount required for injected or intravenously administered
19 anti-cancer medications that are covered under the policy or
20 plan; or

21 (2) Reclassifying benefits with respect to anti-cancer
22 medications.

23 (c) As used in this section, “anti-cancer medication” means
24 a FDA approved medication prescribed by a treating physician
25 who determines that the medication is medically necessary to

26 kill or slow the growth of cancerous cells in a manner consistent
27 with nationally accepted standards of practice.

28 (d) This section is effective for policy and plan years
29 beginning on or after January 1, 2016. This section applies to all
30 group accident and sickness insurance policies and plans subject
31 to this article that are delivered, executed, issued, amended,
32 adjusted or renewed in this state, on and after the effective date
33 of this section.

34 (e) Notwithstanding any other provision in this section to the
35 contrary, in the event that an entity subject to this article can
36 demonstrate actuarially to the Insurance Commissioner that its
37 total anticipated costs for any policy, plan, contract or agreement
38 to comply with this section will exceed or have exceeded two
39 percent of the total costs for such policy, plan, contract or
40 agreement in any experience period, then the entity may apply
41 whatever cost containment measures may be necessary to
42 maintain costs below two percent of the total costs for the policy,
43 plan, contract or agreement: *Provided*, That such cost
44 containment measures implemented are applicable only for the

45 plan year or experience period following approval of the request
46 to implement cost containment measures.

47 (f) For any enrollee that is enrolled in a catastrophic plan as
48 defined in Section 1302(e) of the Affordable Care Act or in a
49 plan that, but for this requirement, would be a High Deductible
50 Health Plan as defined in section 223(c)(2)(A) of the Internal
51 Revenue Code of 1986, and that, in connection with every
52 enrollment, opens and maintains for each enrollee a Health
53 Savings Account as that term is defined in section 223(d) of the
54 Internal Revenue Code of 1986, the cost-sharing limit outlined
55 in subsection (a) of this section shall be applicable only after the
56 minimum annual deductible specified in section 223(c)(2)(A) of
57 the Internal Revenue Code of 1986 is reached. In all other cases,
58 this limit shall be applicable at any point in the benefit design,
59 including before and after any applicable deductible is reached.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8j. Deductibles, copayments and coinsurance for anti-cancer medications.

1 (a) Notwithstanding any provision of any policy, contract,
2 plan or agreement to which this article applies, a policy, contract,

3 plan or agreement issued to a member or subscriber by an entity
4 regulated by this article that covers anti-cancer medications that
5 are injected or intravenously administered by a health care
6 provider and patient administered anti-cancer medications,
7 including, but not limited to, those medications orally
8 administered or self-injected, may not require a less favorable
9 basis for a copayment, deductible or coinsurance amount for
10 patient administered anti-cancer medications than it requires for
11 injected or intravenously administered anti-cancer medications,
12 regardless of the formulation or benefit category determination
13 by the policy or plan.

14 (b) A contract issued to a member or subscriber that is
15 subject to this article may not comply with subsection (a) of this
16 section by:

17 (1) Increasing the copayment, deductible or coinsurance
18 amount required for injected or intravenously administered
19 anti-cancer medications that are covered under the policy,
20 contract, or plan or agreement; or

21 (2) Reclassifying benefits with respect to anti-cancer
22 medications.

23 (c) As used in this section, “anti-cancer medication” means
24 a FDA approved medication prescribed by a treating physician
25 who determines that the medication is medically necessary to
26 kill or slow the growth of cancerous cells in a manner consistent
27 with nationally accepted standards of practice.

28 (d) This section is effective for policy, plan or agreement
29 years beginning on or after January 1, 2016. This section applies
30 to all policies, plans, contracts or agreements subject to this
31 article that are delivered, executed, issued, amended, adjusted or
32 renewed in this state, on and after the effective date of this
33 section.

34 (e) Notwithstanding any other provision in this section to the
35 contrary, in the event that an entity subject to this article can
36 demonstrate actuarially to the Insurance Commissioner that its
37 total anticipated costs for benefits to all members or subscribers
38 to comply with this section will exceed or have exceeded two
39 percent of the total costs for all benefits of the policy, plan,
40 contract or agreement in any experience period, then the entity
41 may apply whatever cost containment measures may be
42 necessary to maintain costs below two percent of the total costs
43 for the policy, plan, contract or agreement: *Provided*, That such

44 cost containment measures implemented are applicable only for
45 the plan year or experience period following approval of the
46 request to implement cost containment measures.

47 (f) For any enrollee that is enrolled in a catastrophic plan as
48 defined in Section 1302(e) of the Affordable Care Act or in a
49 plan that, but for this requirement, would be a High Deductible
50 Health Plan as defined in section 223(c)(2)(A) of the Internal
51 Revenue Code of 1986, and that, in connection with every
52 enrollment, opens and maintains for each enrollee a Health
53 Savings Account as that term is defined in section 223(d) of the
54 Internal Revenue Code of 1986, the cost-sharing limit outlined
55 in subsection (a) of this section shall be applicable only after the
56 minimum annual deductible specified in section 223(c)(2)(A) of
57 the Internal Revenue Code of 1986 is reached. In all other cases,
58 this limit shall be applicable at any point in the benefit design,
59 including before and after any applicable deductible is reached.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8l. Deductibles, copayments and coinsurance for anti-cancer medications.

1 (a) Notwithstanding any provision of any policy, contract,
2 plan or agreement to which this article applies, any policy,

3 contract, plan or agreement issued by a health maintenance
4 organization pursuant to this article that covers anti-cancer
5 medications that are injected or intravenously administered by
6 a health care provider and patient administered anti-cancer
7 medications, including, but not limited to, those medications
8 orally administered or self-injected, may not require a less
9 favorable basis for a copayment, deductible or coinsurance
10 amount for patient administered anti-cancer medications than it
11 requires for injected or intravenously administered anti-cancer
12 medications, regardless of the formulation or benefit category
13 determination by the policy or plan.

14 (b) A policy, contract, plan or agreement or a health
15 maintenance organization may not comply with subsection (a) of
16 this section by:

17 (1) Increasing the copayment, deductible or coinsurance
18 amount required for injected or intravenously administered
19 anti-cancer medications that are covered under the policy,
20 contract, or plan or agreement; or

21 (2) Reclassifying benefits with respect to anti-cancer
22 medications.

23 (c) As used in this section, “anti-cancer medication” means
24 a FDA approved medication prescribed by a treating physician
25 who determines that the medication is medically necessary to
26 kill or slow the growth of cancerous cells in a manner consistent
27 with nationally accepted standards of practice.

28 (d) This section is effective for policy, contract, plan or
29 agreement beginning on or after January 1, 2016. This section
30 applies to all policies, contracts, plans or agreements subject to
31 this article that are delivered, executed, issued, amended,
32 adjusted or renewed in this state, on and after the effective date
33 of this section.

34 (e) Notwithstanding any other provision in this section to the
35 contrary, in the event that a health maintenance organization
36 subject to this article can demonstrate actuarially to the
37 Insurance Commissioner that its total anticipated costs for any
38 health maintenance contract to comply with this section will
39 exceed or have exceeded two percent of the total costs for the
40 policy, contract, plan or agreement in any experience period,
41 then the health maintenance organization may apply whatever
42 cost containment measures may be necessary to maintain costs

43 below two percent of the total costs for the policy, contract, plan
44 or agreement: *Provided*, That such cost containment measures
45 implemented are applicable only for the plan year or experience
46 period following approval of the request to implement cost
47 containment measures.

48 (f) For any enrollee that is enrolled in a catastrophic plan as
49 defined in Section 1302(e) of the Affordable Care Act or in a
50 plan that, but for this requirement, would be a High Deductible
51 Health Plan as defined in section 223(c)(2)(A) of the Internal
52 Revenue Code of 1986, and that, in connection with every
53 enrollment, opens and maintains for each enrollee a Health
54 Savings Account as that term is defined in section 223(d) of the
55 Internal Revenue Code of 1986, the cost-sharing limit outlined
56 in subsection (a) of this section shall be applicable only after the
57 minimum annual deductible specified in section 223(c)(2)(A) of
58 the Internal Revenue Code of 1986 is reached. In all other cases,
59 this limit shall be applicable at any point in the benefit design,
60 including before and after any applicable deductible is reached.

