

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2770**

BY DELEGATES ROHRBACH, ELLINGTON, BARRETT,

QUEEN, WAXMAN, BYRD, WESTFALL AND NELSON

[Introduced on January 30, 2019; Referenced to

Banking and Insurance and then to the Judiciary.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §33-52-1, §33-52-2, §33-52-3, and §33-52-4, all relating to establishing the  
3 Fairness in Cost-Sharing Calculation Act; providing for definitions; establishing health plan  
4 cost sharing calculations; establishing pharmacy benefits cost sharing calculations; and  
5 providing for rule-making authority.

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

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

**§33-15-4s. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Health care services” means items or services furnished to any individual for the purpose  
5 of preventing, alleviating, curing, or healing human illness, injury, or physical or mental disability.

6 “Person” means a natural person, corporation, mutual company, unincorporated  
7 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
8 corporation, unincorporated organization, or government or governmental subdivision or agency.

9 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. §300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manager shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 et seq of this code, to implement the provisions of this section.

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

**§33-16-3dd. Fairness in Cost-Sharing Calculation.**

1        (a) As used in this section:

2        “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4        “Health care services” means items or services furnished to any individual for the purpose  
5 of preventing, alleviating, curing, or healing human illness, injury, or physical or mental disability.

6        “Person” means a natural person, corporation, mutual company, unincorporated  
7 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
8 corporation, unincorporated organization, or government or governmental subdivision or agency.

9        “Pharmacy benefits manager” means the same as that term is defined in §33-51-3.

10       (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. §300gg-6(b):

13       (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15       (2) A pharmacy benefits manager shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17       (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 et seq of this code, to implement the provisions of this section.

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

**§33-24-7s. Fairness in Cost-Sharing Calculation.**

1        (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Health care services” means items or services furnished to any individual for the purpose  
5 of preventing, alleviating, curing, or healing human illness, injury, or physical or mental disability.

6 “Person” means a natural person, corporation, mutual company, unincorporated  
7 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
8 corporation, unincorporated organization, or government or governmental subdivision or agency.

9 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. §300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manager shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 et seq of this code, to implement the provisions of this section.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-8p. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Health care services” means items or services furnished to any individual for the purpose  
5 of preventing, alleviating, curing, or healing human illness, injury, or physical or mental disability.

6 “Person” means a natural person, corporation, mutual company, unincorporated  
7 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
8 corporation, unincorporated organization, or government or governmental subdivision or agency.

9 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. §300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manager shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 et seq of this code, to implement the provisions of this section.

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

**§33-25A-8s. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Health care services” means items or services furnished to any individual for the purpose  
5 of preventing, alleviating, curing, or healing human illness, injury, or physical or mental disability.

6 “Person” means a natural person, corporation, mutual company, unincorporated  
7 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
8 corporation, unincorporated organization, or government or governmental subdivision or agency.

9 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3.

10 (b) When calculating an insured's contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. §300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manager shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with  
§29A-3-1 et seq of this code, to implement the provisions of this section.

NOTE: The purpose of this bill is to create the Fairness in Cost-Sharing Calculation Act by establishing cost sharing calculations for health plans and pharmacy benefits.

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