

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2807**

BY DELEGATES ROHRBACH AND J. PACK

[Introduced March 01, 2021; Referred to the  
Committee on Health and Human Resources then  
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §33-55-11, relating to creating the “Fairness in Cost-Sharing Act;” providing  
 3 definitions; and requiring manufacturer pharmaceutical rebates to be passed through to  
 4 the consumer.

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

**ARTICLE 55. HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY ACT.**

**§33-55-11. FAIRNESS IN COST-SHARING ACT.**

1 (a) As used in this section:

2 (1) “Defined Cost Sharing” means a deductible payment or coinsurance amount imposed  
 3 on an enrollee for a covered prescription drug under the enrollee’s health plan.

4 (2) “Insurer” means any health insurance issuer that is subject to state law regulating  
 5 insurance and offers health insurance coverage, as defined in 42 U.S.C. § 300gg-91.

6 (3) “Price Protection Rebate” means a negotiated price concession that accrues directly  
 7 or indirectly to the insurer, or other party on behalf of the insurer, in the event of an increase in  
 8 the wholesale acquisition cost of a drug above a specified threshold.

9 (4) “Rebate” means:

10 (A) Negotiated price concessions including, but not limited to, base price concessions  
 11 (whether described as a “rebate” or otherwise) and reasonable estimates of any price protection  
 12 rebates and performance-based price concessions that may accrue directly or indirectly to the  
 13 insurer during the coverage year from a manufacturer, dispensing pharmacy, or other party in  
 14 connection with the dispensing or administration of a prescription drug, and

15 (B) Reasonable estimates of any negotiated price concessions, fees and other  
 16 administrative costs that are passed through, or are reasonably anticipated to be passed through,  
 17 to the insurer and serve to reduce the insurer’s liabilities for a prescription drug.

18 (b) An enrollee’s defined cost sharing for each prescription drug shall be calculated at the  
 19 point of sale based on a price that is reduced by an amount equal to 100% of all rebates received,

20 or to be received, in connection with the dispensing or administration of the prescription drug.

21 (c) Nothing in the foregoing subsection shall preclude an insurer from decreasing an  
22 enrollee's defined cost sharing by an amount greater than that required under subsection (b) of  
23 this section.

24 (d) If the commissioner determines that an insurer has not complied with any provision of  
25 this article, the commissioner may use any of the commissioner's enforcement powers to obtain  
26 the insurer's compliance with this article.

NOTE: The purpose of this bill is to require manufacturer pharmaceutical rebates to be passed through to the consumer.

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