

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2877

BY DELEGATES WESTFALL AND SUMMERS

[Originating in the Committee on Health and Human
Resources; reported on March 9, 2021]

1 A BILL to amend and reenact §30-3F-1, §30-3F-2, and §30-3F-3 of the Code of West Virginia,
2 1931, as amended, relating to expanding direct medical care arrangements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3F. DIRECT PRIMARY MEDICAL CARE.

§30-3F-1. Definitions.

1 As used in this section:

2 (1) "Boards" means the West Virginia Board of Medicine; the West Virginia Board of
3 Osteopathic Medicine, the West Virginia Board of Optometry, West Virginia Board of Physical
4 Therapy, West Virginia Board of Chiropractic, West Virginia Board of Dentistry and the West
5 Virginia Board of Examiners for Registered Professional Nurses;

6 (2) "Direct ~~primary~~ medical care membership agreement" means a written contractual
7 agreement between a ~~primary~~ care provider and a person, or the person's legal representative;

8 (3) "Direct ~~primary~~ medical care provider" means an individual or legal entity, alone or with
9 others professionally associated with the provider or other legal entity, that is authorized to provide
10 ~~primary~~ medical care services and who chooses to enter into a direct ~~primary~~ medical care
11 membership agreement;

12 (4) "Medical products" means any product used to diagnose or manage a disease,
13 including any medical device, treatment or drug;

14 (5) "Medical services" means a screen, assessment, diagnosis or treatment for the
15 purpose of promotion of health or the detection and management of disease or injury within the
16 competency and training of the direct ~~primary~~ medical care provider; and

17 (6) "Primary Medical care provider" means an individual or other legal entity that is
18 authorized to provide medical services and medical products under his or her scope of practice
19 in this state.

§30-3F-2. Direct ~~Primary~~ Medical Care.

1 (a) A person or a legal representative of a person may seek care outside of an insurance
2 plan, or outside of the Medicaid or Medicare program, and pay for the care.

3 (b) A ~~primary~~ medical care provider may accept payment for medical services or medical
4 products outside of an insurance plan.

5 (c) A ~~primary~~ medical care provider may accept payment for medical services or medical
6 products provided to a Medicaid or Medicare beneficiary.

7 (d) A patient or legal representative does not forfeit insurance benefits, Medicaid benefits
8 or Medicare benefits by purchasing medical services or medical products outside the system.

9 (e) The offer and provision of medical services or medical products purchased and
10 provided under this article is not an offer of insurance nor regulated by the insurance laws of the
11 state.

12 (f) The direct ~~primary~~ medical care provider may not bill third parties on a fee for service
13 basis for services provided under the direct ~~primary~~ medical care membership agreement.

14 (g) A ~~primary~~ medical care provider may not bill any third-party payer for services rendered
15 or products sold pursuant to a direct ~~primary~~ medical care membership agreement.

§30-3F-3. Prohibited and authorized practices.

1 (a) A direct ~~primary~~ medical care membership agreement is not insurance and is not
2 subject to regulation by the Office of the Insurance Commission.

3 (b) A direct ~~primary~~ medical care provider or its agent is not required to obtain a
4 certification of authority or license under chapter thirty-three to market, sell or offer to sell a direct
5 ~~primary~~-care agreement.

6 (c) A direct ~~primary~~ medical care membership agreement is not a discount medical plan.

7 (d) A direct ~~primary~~ medical care membership agreement shall:

8 (1) Be in writing;

9 (2) Be signed by the ~~primary~~ medical care provider or agent of the ~~primary~~ medical care
10 provider and the individual patient or his or her legal representative;

11 (3) Allow either party to terminate the agreement on at least 30 days prior written notice
12 to the other party;

13 (4) Describe the scope of ~~primary~~ medical care services that are covered by the periodic
14 fee;

15 (5) Specify the periodic fee and any additional fees outside of the periodic fee for ongoing
16 care under the agreement;

17 (6) Specify the duration of the agreement and any automatic renewal periods. Any per-
18 visit charges under the agreement will be less than the monthly equivalent of the periodic fee.

19 The person is not required to pay more than twelve months of the fee in advance. Funds are not
20 earned by the practice until the month of ongoing care is completed. Upon discontinuing the
21 agreement all unearned funds are returned to the patient; and

22 (7) Prominently state in writing that the agreement is not health insurance.

NOTE: The purpose of this bill is to expand direct health care agreements beyond primary care to include more medical care services.

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