WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4263

By Delegates Rohrbach, Reed, Tully, Pack, G. Ward, Bates, D. Jeffries, Rowan, Forsht, and Mallow

[Originating in the Committee on Health and Human Resources; Reported on January 25, 2022]

1   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,

2   designated §33-61-1, relating to health insurance; prohibiting certain actions; and

3   providing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 61. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED MEDICATIONS.

§33-61-1. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED MEDICATIONS.

1   (a) The following words shall have the following meanings:

2   "Covered individual" means the same as §33-51-3.

3   "Physician-administered drug" means any prescription drug, other than a vaccine, that

4 required administration by a provider and is not approved as a self-administered drug.

5   (b) A health insurance issuer, pharmacy benefit manager, or their agent may not refuse

6 to authorize, approve, or pay a participating provider for providing covered physician-administered

7 drugs and related services to covered persons.

8   (c) A health insurance issuer shall not condition, deny, restrict, refuse to authorize or

9 approve, or reduce payment to a participating provider for a physician-administered drug when

10 all criteria for medical necessity are met, because the participating provider obtains physician-

11 administered drugs from a pharmacy that is not a participating provider in the health insurance

12 issuer's network. The drug supplied shall meet the supply chain security controls and chain of

13 distribution set by the federal Drug Supply Chain Security Act, 29 Pub. L. 113-54, as amended.

14 The payment shall be at the rate set forth in the health insurance issuer's agreement with the

15 participating provider applicable to such drugs, or if no such rate is included in the agreement,

16 then at the wholesale acquisition cost.

17   (d) A health insurance issuer, pharmacy benefit manager, or their agent, may not require

18   a covered person to pay an additional fee, or any other increased cost-sharing amount in addition

19   to applicable cost sharing amounts payable by the covered person as designated within the

20   benefit plan to obtain the physician-administered drug when provided by a participating provider.

21   (e) Nothing in this section may:

22   (1) Prohibit a health insurance issuer or its agent from establishing differing copayments

23   or other cost-sharing amounts within the benefit plan for covered persons who acquire physician-

24   administered drugs from other providers.

25   (2) Prohibit a health insurance issuer or its agent from refusing to authorize or approve, or

26   from denying coverage of a physician-administered drug based upon failure to satisfy medical

27   necessity criteria. The location of receiving the physician-administered drug shall not be included

28   in the medical necessity criteria.

29   (3) Prohibit a health insurance issuer from establishing specialty care centers of

30   excellence based on nationally established, objective quality measures, to be utilized by covered

31   persons focused on specific drugs or types of drugs to impact the safety, quality, affordability, and

32   expertise of treatment.

33   (f) The commission of any act prohibited by this section shall be considered an unfair

34   method of competition and unfair practice or act which shall subject the violator to any and all

35   actions, including investigative demands, private actions, remedies, and penalties, provided for in

36   the Unfair Trade Practices and Consumer Protection Law.

37   (g) This section applies to all policies, contracts, plans, or agreements that are delivered,

38   executed, amended, adjusted, or renewed on or after January 1, 2023.

NOTE: The purpose of this bill is to prohibit the practice of white bagging.

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