

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 594

By Senators Takubo, Maroney, and Nelson

[Introduced February 09, 2023; referred
to the Committee on Banking and Insurance]

1 A BILL to amend and reenact §33-15-4t of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §33-16-3ee of said code; to amend and reenact §33-24-7t of said
 3 code; to amend and reenact §33-25-8q of said code; and to amend and reenact §33-25A-
 4 8t of said code, all relating to fairness in cost-sharing calculations for certain Health
 5 Savings Account-qualified High Deductible Health Plans.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4t. 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 "Drug" means the same as the term is defined in §30-5-4(19).

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

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
 9 code.

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 manger 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.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
 20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
 21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
 22 after the effective date of this section.

23 (e) If under federal law, application of subsection (b) would result in Health Savings
 24 Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall
 25 apply for Health Savings Account-qualified High Deductible Health Plans with respect to the
 26 deductible of such a plan after the enrollee has satisfied the minimum deductible under section
 27 223, except for with respect to items or services that are preventive care pursuant to section
 28 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
 29 paragraph shall apply regardless of whether the minimum deductible under section 223 has been
 30 satisfied.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3ee. 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 "Drug" means the same as the term is defined in §30-5-4(19).
 5 "Person" means a natural person, corporation, mutual company, unincorporated
 6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit
 7 corporation, unincorporated organization, or government or governmental subdivision or agency.
 8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
 9 code.
 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 manger 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.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
 20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
 21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
 22 after the effective date of this section.

23 (e) If under federal law, application of subsection (b) would result in Health Savings
 24 Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall
 25 apply for Health Savings Account-qualified High Deductible Health Plans with respect to the
 26 deductible of such a plan after the enrollee has satisfied the minimum deductible under section
 27 223, except for with respect to items or services that are preventive care pursuant to section
 28 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
 29 paragraph shall apply regardless of whether the minimum deductible under section 223 has been
 30 satisfied.

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

§33-24-7t. 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 "Drug" means the same as the term is defined in §30-5-4(19).

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

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
9 code.

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 manger 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.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
22 after the effective date of this section.

23 (e) If under federal law, application of subsection (b) would result in Health Savings
24 Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall
25 apply for Health Savings Account-qualified High Deductible Health Plans with respect to the
26 deductible of such a plan after the enrollee has satisfied the minimum deductible under section
27 223, except for with respect to items or services that are preventive care pursuant to section
28 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
29 paragraph shall apply regardless of whether the minimum deductible under section 223 has been

30 satisfied.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8q. 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 "Drug" means the same as the term is defined in §30-5-4(19).

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

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
9 code.

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 manger 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.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
22 after the effective date of this section.

23 (e) If under federal law, application of subsection (b) would result in Health Savings

24 Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall
 25 apply for Health Savings Account-qualified High Deductible Health Plans with respect to the
 26 deductible of such a plan after the enrollee has satisfied the minimum deductible under section
 27 223, except for with respect to items or services that are preventive care pursuant to section
 28 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
 29 paragraph shall apply regardless of whether the minimum deductible under section 223 has been
 30 satisfied.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8t. 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 "Drug" means the same as the term is defined in §30-5-4(19).

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

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
 9 code.

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 manger 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.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
22 after the effective date of this section.

23 (e) If under federal law, application of subsection (b) would result in Health Savings
24 Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall
25 apply for Health Savings Account-qualified High Deductible Health Plans with respect to the
26 deductible of such a plan after the enrollee has satisfied the minimum deductible under section
27 223, except for with respect to items or services that are preventive care pursuant to section
28 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
29 paragraph shall apply regardless of whether the minimum deductible under section 223 has been
30 satisfied.

NOTE: The purpose of this bill is to relate to fairness in cost-sharing calculations for certain Health Savings Account-qualified High Deductible Health Plans.

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