

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 594

By Senators Takubo, Maroney, and Nelson

[Passed March 03, 2023; in effect from passage]

1 AN ACT 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 cost-sharing calculations in insurance code and Health
5 Savings Account eligibility.

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 of this code.

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) of this section would result in Health
24 Savings Account ineligibility under Section 223 of the Internal Revenue Code, this requirement
25 shall apply only for Health Savings Account-qualified High Deductible Health Plans with respect to
26 the deductible of such a plan after the enrollee has satisfied the minimum deductible under Section
27 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that are
28 preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements
29 of subsection (b) of this section shall apply regardless of whether the minimum deductible under
30 Section 223 of the Internal Revenue Code has been 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 of this code.
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) of this section would result in Health
24 Savings Account ineligibility under Section 223 of the Internal Revenue Code, this requirement
25 shall apply only for Health Savings Account-qualified High Deductible Health Plans with respect to
26 the deductible of such a plan after the enrollee has satisfied the minimum deductible under Section
27 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that are
28 preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements
29 of subsection (b) of this section shall apply regardless of whether the minimum deductible under
30 Section 223 of the Internal Revenue Code has been 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 of this code.

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 this
21 article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after
22 the effective date of this section.

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

30 Section 223 of the Internal Revenue Code has been 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 of this code.

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) of this section would result in Health

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

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