

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 594**

BY SENATORS TAKUBO, MARONEY, AND NELSON

[Originating in the Committee on Banking and  
Insurance; reported on February 21, 2023]



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 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(19)~~ §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  
22 or 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  
26 to the deductible of such a plan after the enrollee has satisfied the minimum deductible under  
27 Section 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that  
28 are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the  
29 requirements of subsection (b) of this section shall apply regardless of whether the minimum  
30 deductible under 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(19)~~ §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  
22 or 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  
26 to the deductible of such a plan after the enrollee has satisfied the minimum deductible under  
27 Section 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that  
28 are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the  
29 requirements of subsection (b) of this section shall apply regardless of whether the minimum  
30 deductible under 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(19)~~ §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  
22 or 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  
26 to the deductible of such a plan after the enrollee has satisfied the minimum deductible under  
27 Section 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that  
28 are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the

29 requirements of subsection (b) of this section shall apply regardless of whether the minimum  
30 deductible under 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(19)~~ §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  
22 or 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  
26 to the deductible of such a plan after the enrollee has satisfied the minimum deductible under  
27 Section 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that  
28 are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the  
29 requirements of subsection (b) of this section shall apply regardless of whether the minimum  
30 deductible under 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(19)~~ §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  
22 or 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  
26 to the deductible of such a plan after the enrollee has satisfied the minimum deductible under  
27 Section 223 of the Internal Revenue Code: *Provided*, That with respect to items or services that  
28 are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the  
29 requirements of subsection (b) of this section shall apply regardless of whether the minimum  
30 deductible under Section 223 of the Internal Revenue Code has been satisfied.