

1 **H. B. 4527**

2  
3 (By Delegates Poore, Hatfield, Perdue,  
4 Guthrie and D. Campbell)

5  
6 [Introduced February 14, 2012; referred to the

7 Committee on Banking and Insurance then Health and Human  
8 Resources.]

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §5-16-27; to amend  
12 said code by adding thereto a new section, designated §33-15-  
13 22; to amend said code by adding thereto a new section,  
14 designated §33-16-3c; to amend said code by adding thereto a  
15 new section, designated §33-24-15; to amend said code by  
16 adding thereto a new section, designated §33-25-15; and to  
17 amend said code by adding thereto a new section, designated  
18 §33-25A-29, all relating to prohibiting a health insurance  
19 policy or health care plan that provides prescription drug  
20 benefits categorized or tiered for purposes of cost-sharing  
21 through deductibles or coinsurance obligations from reclassify  
22 a drug on the formulary as a specialty tier drug or increasing  
23 the cost-sharing, copayment, deductible or coinsurance charges  
24 for an existing specialty tier drug on the formulary during  
25 the policy or plan year; and requiring thirty days notice

1 prior to the beginning of the policy or plan year.

2 *Be it enacted by the Legislature of West Virginia:*

3 That the Code of West Virginia, 1931, as amended, be amended  
4 by adding thereto a new section, designated §5-16-27; that said  
5 code be amended by adding thereto a new section, designated §33-15-  
6 22; that said code be amended by adding thereto a new section,  
7 designated §33-16-3c; that said code be amended by adding thereto  
8 a new section, designated §33-24-15; that said code be amended by  
9 adding thereto a new section, designated §33-25-15; and that said  
10 code be amended by adding thereto a new section, designated  
11 §33-25A-29, all to read as follows:

12 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**

13 **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD**

14 **OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS,**

15 **OFFICES, PROGRAMS, ETC.**

16 **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

17 **§5-16-27. Specialty tier drugs; formulary reclassification and**  
18 **increased charges prohibited during plan year.**

19 (a) Notwithstanding any provision in this article to the  
20 contrary, a health care plan that is issued or renewed under the  
21 provisions of this article, and that provides prescription drug  
22 benefits categorized or tiered for purposes of cost-sharing through  
23 deductibles or coinsurance obligations, may not, prior to the

1 annual anniversary date of the plan:

2 (1) Reclassify a drug on the formulary as a specialty tier  
3 drug; or

4 (2) Increase cost-sharing, copayment, deductible or  
5 coinsurance charges for an existing specialty tier drug on the  
6 formulary.

7 (b) The administrator for the plan shall give the enrollee at  
8 least thirty days' advance notice prior to the beginning of a plan  
9 year before impending a formulary change set forth in subdivision  
10 (1) or (2) of subsection (a) of this section.

11 **CHAPTER 33. INSURANCE.**

12 **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

13 **§33-15-22. Specialty tier drugs; formulary reclassification and**  
14 **increased charges prohibited during policy or plan**  
15 **year.**

16 (a) Notwithstanding any provision in this article to the  
17 contrary, a health insurance policy or health care plan that is  
18 issued or renewed under the provisions of this article, and that  
19 provides prescription drug benefits categorized or tiered for  
20 purposes of cost-sharing through deductibles or coinsurance  
21 obligations, may not, prior to the annual anniversary date of the  
22 policy or plan:

23 (1) Reclassify a drug on the formulary as a specialty tier

1 drug; or

2 (2) Increase cost-sharing, copayment, deductible or  
3 coinsurance charges for an existing specialty tier drug on the  
4 formulary.

5 (b) The administrator for the policy or plan shall give the  
6 enrollee at least thirty days' advance notice prior to the  
7 beginning of a policy or plan year before impending a formulary  
8 change set forth in subdivision (1) or (2) of subsection (a) of  
9 this section.

10 **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

11 **§33-16-3c. Specialty tier drugs; formulary reclassification and**  
12 **increased charges prohibited during policy or plan**  
13 **year.**

14 (a) Notwithstanding any provision in this article to the  
15 contrary, a health insurance policy or health care plan that is  
16 issued or renewed under the provisions of this article, and that  
17 provides prescription drug benefits categorized or tiered for  
18 purposes of cost-sharing through deductibles or coinsurance  
19 obligations, may not, prior to the annual anniversary date of the  
20 policy or plan:

21 (1) Reclassify a drug on the formulary as a specialty tier  
22 drug; or

23 (2) Increase cost-sharing, copayment, deductible or

1 coinsurance charges for an existing specialty tier drug on the  
2 formulary.

3 (b) The administrator for the policy or plan shall give the  
4 enrollee at least thirty days' advance notice prior to the  
5 beginning of a policy or plan year before impending a formulary  
6 change set forth in subdivision (1) or (2) of subsection (a) of  
7 this section.

8 **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE**  
9 **CORPORATIONS, DENTAL SERVICE CORPORATIONS AND**  
10 **HEALTH SERVICE CORPORATIONS.**

11 **§33-24-15. Specialty tier drugs; formulary reclassification and**  
12 **increased charges prohibited during policy or plan**  
13 **year.**

14 (a) Notwithstanding any provision in this article to the  
15 contrary, a health insurance policy or health care plan that is  
16 issued or renewed under the provisions of this article, and that  
17 provides prescription drug benefits categorized or tiered for  
18 purposes of cost-sharing through deductibles or coinsurance  
19 obligations, may not, prior to the annual anniversary date of the  
20 policy or plan:

21 (1) Reclassify a drug on the formulary as a specialty tier  
22 drug; or

23 (2) Increase cost-sharing, copayment, deductible or

1 coinsurance charges for an existing specialty tier drug on the  
2 formulary.

3 (b) The administrator for the policy or plan shall give the  
4 enrollee at least thirty days' advance notice prior to the  
5 beginning of a policy or plan year before impending a formulary  
6 change set forth in subdivision (1) or (2) of subsection (a) of  
7 this section.

8 **ARTICLE 25. HEALTH CARE CORPORATIONS.**

9 **§33-25-15. Specialty tier drugs; formulary reclassification and**  
10 **increased charges prohibited during policy or plan**  
11 **year.**

12 (a) Notwithstanding any provision in this article to the  
13 contrary, a health insurance policy or health care plan that is  
14 issued or renewed under the provisions of this article, and that  
15 provides prescription drug benefits categorized or tiered for  
16 purposes of cost-sharing through deductibles or coinsurance  
17 obligations, may not, prior to the annual anniversary date of the  
18 policy or plan:

19 (1) Reclassify a drug on the formulary as a specialty tier  
20 drug; or

21 (2) Increase cost-sharing, copayment, deductible or  
22 coinsurance charges for an existing specialty tier drug on the  
23 formulary.

1       (b) The administrator for the policy or plan shall give the  
2 enrollee at least thirty days' advance notice prior to the  
3 beginning of a policy or plan year before impending a formulary  
4 change set forth in subdivision (1) or (2) of subsection (a) of  
5 this section.

6 **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

7 **§33-25A-29. Specialty tier drugs; formulary reclassification and**  
8 **increased charges prohibited during policy or plan**  
9 **year.**

10       (a) Notwithstanding any provision in this article to the  
11 contrary, a health insurance policy or health care plan that is  
12 issued or renewed under the provisions of this article, and that  
13 provides prescription drug benefits categorized or tiered for  
14 purposes of cost-sharing through deductibles or coinsurance  
15 obligations, may not, prior to the annual anniversary date of the  
16 policy or plan:

17       (1) Reclassify a drug on the formulary as a specialty tier  
18 drug; or

19       (2) Increase cost-sharing, copayment, deductible or  
20 coinsurance charges for an existing specialty tier drug on the  
21 formulary.

22       (b) The administrator for the policy or plan shall give the  
23 enrollee at least thirty days' advance notice prior to the

1 beginning of a policy or plan year before impending a formulary  
2 change set forth in subdivision (1) or (2) of subsection (a) of  
3 this section.

NOTE: The purpose of this bill is to prohibit a health insurance policy or health care plan that provides prescription drug benefits categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations from reclassing a drug on the formulary as a specialty tier drug or increasing the cost-sharing, copayment, deductible or coinsurance charges for an existing specialty tier drug on the formulary during the policy or plan year. The bill requires thirty days' notice prior to the beginning of the policy or plan year to implement those changes.

§5-16-27, §33-15-22, §33-16-3c, §33-24-15, §33-25-15 and §33-25A-29 are new; therefore, it has been completely underscored.