

1 **H. B. 3099**

2  
3 (By Delegates Arvon, Border, Householder, Ellington,  
4 Gearheart, Miller, Staggers, Longstreth, Moye, Raines and Butler)

5  
6 [Introduced March 25, 2013; referred to the  
7 Committee on the Judiciary then Finance.]

8 **FISCAL  
NOTE**

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended by  
11 adding thereto a new section, designated §5-16-7f; and to  
12 amend and reenact §33-15-4e of said code; and to amend said  
13 code by adding thereto a new section, designated §33-16-3w;  
14 and to amend said code by adding thereto a new section,  
15 designated §33-24-7i; and to amend said code by adding thereto  
16 a new section, designated §33-25A-8k, all relating to  
17 insurance; requiring the Public Employees Insurance Agency to  
18 provide optional maternity and pediatric benefits to dependent  
19 mothers covered under the article; requiring insurers offering  
20 accident and sickness insurance to provide the same benefits;  
21 requiring insurers offering group accident and sickness  
22 insurance to provide the same coverage; requiring hospital,  
23 medical, dental and health service corporations offering plans  
24 to provide the same coverage; and requiring health maintenance  
25 organizations offering plans to provide the same coverage.

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

2       That the Code of West Virginia, 1931, as amended, be amended  
3 by adding thereto a new section, designated §5-16-7f; that §33-15-4e  
4 of said code be amended and reenacted; that said code be amended  
5 by adding thereto a new section, designated §33-16-3w; that said  
6 code be amended by adding thereto a new section, designated §33-24-  
7 7i; and that said code be amended by adding thereto a new section,  
8 designated §33-25A-8k, all to read as follows:

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

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

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

12                   **OFFICES, PROGRAMS, ETC.**

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

14 **§5-16-7f. Benefits for certain mothers and infants.**

15       (a) On or after July 1, 2013, notwithstanding any other  
16 provision of this code to the contrary, the agency shall make  
17 optional maternity and pediatric care benefits available at a  
18 reasonable rate to any mother under the age of eighteen who is  
19 covered by one or another of her subscriber or member parent or  
20 legal guardian's insurance policy provision, contract, plan or  
21 agreement. The subscriber or member parent or legal guardian may  
22 decline to purchase the benefits or to permit the mother to purchase  
23 the benefits. The offered coverage shall include the mother's

1 prenatal, postnatal and maternity care and the infant child's  
2 pediatric care, and shall continue either until the mother turns  
3 eighteen years of age, graduates from high school or until the child  
4 turns one year old, whichever event last occurs.

5 (b) If the mother's parents or legal guardians have no  
6 insurance coverage through any policy, provision, contract, plan or  
7 agreement, or decline to purchase benefits available under this  
8 section, then the infant child's father's parents or legal guardians  
9 may secure coverage for maternal and pediatric care, as defined  
10 under this section, for the infant and the infant's mother through  
11 any policy, provision, contract, plan or agreement under which they  
12 have coverage. The father's subscriber or member parent or legal  
13 guardian may decline to purchase the benefits or to permit the  
14 mother to purchase the benefits.

15 (c) In order for the mother to secure coverage for herself and  
16 her child, under the provisions of this subsection, either she or  
17 the child's father must be enrolled in secondary school and living  
18 with his or her parents or legal guardians.

19 (d) To the extent that the provisions of this section require  
20 benefits that exceed the essential health benefits specified under  
21 section 1302(b) of the Patient Protection and Affordable Care Act,  
22 Pub. L. No. 111-148, as amended:

23 (1) The specific benefits that exceed the specified essential  
24 health benefits shall not be required of a health benefit plan when

1 the plan is offered by a health care insurer in this state through  
2 the state medical exchange; and

3 (2) This section continues to apply to plans offered outside  
4 of the state medical exchange.

5 CHAPTER 33. INSURANCE.

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

7 **§33-15-4e. Benefits for mothers and newborns.**

8 (a) Nothing in this section shall be construed to require a  
9 mother to give birth in a hospital or to stay in a hospital for a  
10 fixed period of time following the birth of her child. However, an  
11 insurer offering accident and sickness insurance coverage under this  
12 article may not restrict benefits for any hospital length of stay  
13 in connection with childbirth for the mother or her newborn child  
14 to less than forty-eight hours following a normal vaginal delivery,  
15 or to less than ninety-six hours following a cesarean section, or  
16 require a provider to obtain authorization for such length hospital  
17 stays. The mother and her newborn child may be discharged prior to  
18 the expiration of the minimum length of stay required under this  
19 section only in those cases in which the decision to discharge is  
20 made by an attending provider in consultation with the mother.

21 (b) Coverage for maternity and pediatric care shall be provided  
22 in accordance with guidelines established by the American College  
23 of Obstetricians and Gynecologists, the American Academy of  
24 Pediatrics, or other established professional medical associations.

1 (c) Benefits provided under this section may be subject to  
2 deductibles, coinsurance, or other cost-sharing in relation to  
3 benefits for hospital stays in connection with childbirth for a  
4 mother or newborn child if the coinsurance or other cost-sharing for  
5 any portion of the hospital stay required under subsection (a) of  
6 this section is no greater than the coinsurance or cost-sharing for  
7 any preceding portion of the stay.

8 (d) Nothing in this section may be construed to prevent an  
9 insurer from negotiating the level and type of reimbursement with  
10 a provider for the care provided a mother or newborn child in  
11 connection with childbirth.

12 (e) This section shall not apply with respect to any accident  
13 and sickness insurance coverage which does not provide benefits for  
14 hospital lengths of stay in connection with childbirth for a mother  
15 or her newborn child.

16 (f) This section shall apply to accident and sickness insurance  
17 coverage offered, sold, issued, renewed, or in effect in the  
18 individual market on or after January 1, 1998.

19 (g) On or after July 1, 2013, notwithstanding any other  
20 provision of this code to the contrary, the agency shall make  
21 optional maternity and pediatric care benefits available at a  
22 reasonable rate to any mother under the age of eighteen who is  
23 covered by one or another of her subscriber or member parent or  
24 legal guardian's insurance policy provision, contract, plan or

1 agreement. The subscriber or member parent or legal guardian may  
2 decline to purchase the benefits or to permit the mother to purchase  
3 the benefits. The offered coverage shall include the mother's  
4 prenatal, postnatal and maternity care and the infant child's  
5 pediatric care, and shall continue either until the mother turns  
6 eighteen years of age, graduates from high school or until the child  
7 turns one year old, whichever event last occurs.

8 (h) If the mother's parents or legal guardians have no  
9 insurance coverage through any policy, provision, contract, plan or  
10 agreement, or decline to purchase benefits available under this  
11 section, then the infant child's father's parents or legal guardians  
12 may secure coverage for maternal and pediatric care, as defined  
13 under this section, for the infant and the infant's mother through  
14 any policy, provision, contract, plan or agreement under which they  
15 have coverage. The father's subscriber or member parent or legal  
16 guardian may decline to purchase the benefits or to permit the  
17 mother to purchase the benefits.

18 (i) In order for the mother to secure coverage for herself and  
19 her child, under the provisions of this subsection, either she or  
20 the child's father must be enrolled in secondary school and living  
21 with his or her parents or legal guardians.

22 (j) To the extent that the provisions of this section require  
23 benefits that exceed the essential health benefits specified under  
24 section 1302(b) of the Patient Protection and Affordable Care Act,

1 Pub. L. No. 111-148, as amended:

2 (1) The specific benefits that exceed the specified essential  
3 health benefits shall not be required of a health benefit plan when  
4 the plan is offered by a health care insurer in this state through  
5 the state medical exchange; and

6 (2) This section continues to apply to plans offered outside  
7 of the state medical exchange.

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

9 **§33-16-3w. Other benefits for mothers and newborns.**

10 (a) Any insurer who, on or after January 1, 2014, delivers,  
11 renews or issues a policy of group accident and sickness insurance  
12 in this state under the provisions of this article shall,  
13 notwithstanding any other provision of this code to the contrary,  
14 make optional maternity and pediatric care benefits available at a  
15 reasonable rate to any mother under the age of eighteen who is  
16 covered by her subscriber or member parent or legal guardian's  
17 policy of group accident and sickness insurance. The subscriber or  
18 member parent or legal guardian may decline to purchase the benefits  
19 or to permit the mother to purchase the benefits. The offered  
20 coverage shall include the mother's prenatal, postnatal and  
21 maternity care and the infant child's pediatric care, and shall  
22 continue either until the mother turns eighteen years of age,  
23 graduates from high school or until the child turns one year old,  
24 whichever event last occurs.

1        (b) If the mother's parents or legal guardians have no  
2 insurance coverage through the policy of group accident and sickness  
3 insurance, or decline to purchase benefits available under this  
4 section, then the infant child's father's parents or legal guardians  
5 may secure coverage for maternal and pediatric care, as defined  
6 under this section, for the infant and the infant's mother through  
7 a policy of group accident and sickness insurance under which they  
8 have coverage. The father's subscriber or member parent or legal  
9 guardian may decline to purchase the benefits or to permit the  
10 mother to purchase the benefits.

11        (c) In order for the mother to secure coverage for herself and  
12 her child, under the provisions of this subsection, either she or  
13 the child's father must be enrolled in secondary school and living  
14 with his or her parents or legal guardians.

15        (d) To the extent that the provisions of this section require  
16 benefits that exceed the essential health benefits specified under  
17 section 1302(b) of the Patient Protection and Affordable Care Act,  
18 Pub. L. No. 111-148, as amended, the specific benefits that exceed  
19 the specified essential health benefits shall not be required of a  
20 health benefit plan when the plan is offered by a health care  
21 insurer in this state and this section continues to apply to plans  
22 offered outside of the state medical exchange.

23 **ARTICLE 24.        HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE**  
24 **CORPORATIONS, DENTAL SERVICE CORPORATIONS AND**



1                               **HEALTH SERVICE CORPORATIONS.**

2 **§33-24-7i. Benefits for certain mothers and infants.**

3       (a) Notwithstanding any provision of any policy, provision,  
4 contract, plan or agreement to which this article applies, any  
5 entity regulated by this article, for policies issued or renewed on  
6 or after January 1, 2014, which delivers, renews or issues a policy  
7 of group accident and sickness insurance in this state under the  
8 provisions of this article shall make optional maternity and  
9 pediatric care benefits available at a reasonable rate to any mother  
10 under the age of eighteen who is covered by one or another of her  
11 subscriber or member parent or legal guardian’s insurance policy  
12 provision, contract, plan or agreement. The subscriber or member  
13 parent or legal guardian may decline to purchase the benefits or to  
14 permit the mother to purchase the benefits. The offered coverage  
15 shall include the mother’s prenatal, postnatal and maternity care  
16 and the infant child’s pediatric care, and shall continue either  
17 until the mother turns eighteen years of age, graduates from high  
18 school or until the child turns one year old, whichever event last  
19 occurs.

20       (b) If the mother’s parents or legal guardians have no  
21 insurance coverage through any policy, provision, contract, plan or  
22 agreement, or decline to purchase benefits available under this  
23 section, then the infant child’s father’s parents or legal guardians  
24 may secure coverage for maternal and pediatric care, as defined

1 under this section, for the infant and the infant's mother through  
2 any policy, provision, contract, plan or agreement under which they  
3 have coverage. The father's subscriber or member parent or legal  
4 guardian may decline to purchase the benefits or to permit the  
5 mother to purchase the benefits.

6 (c) In order for the mother to secure coverage for herself and  
7 her child, under the provisions of this subsection, either she or  
8 the child's father must be enrolled in secondary school and living  
9 with his or her parents or legal guardians.

10 (d) To the extent that the provisions of this section require  
11 benefits that exceed the essential health benefits specified under  
12 section 1302(b) of the Patient Protection and Affordable Care Act,  
13 Pub. L. No. 111-148, as amended, the specific benefits that exceed  
14 the specified essential health benefits shall not be required of a  
15 health benefit plan when the plan is offered by a corporation in  
16 this state.

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

18 **§33-25A-8k. Benefits for certain mothers and infants**

19 (a) Notwithstanding any provision of any policy, provision,  
20 contract, plan or agreement to which this article applies, any  
21 entity regulated by this article for policies issued or renewed on  
22 or after July 1, 2013, which delivers, renews or issues a policy of  
23 group accident and sickness insurance in this state under the  
24 provisions of this article shall make optional maternity and

1 pediatric care benefits available at a reasonable rate to any mother  
2 under the age of eighteen who is covered by one or another of her  
3 subscriber or member parent or legal guardian's insurance policy  
4 provision, contract, plan or agreement. The subscriber or member  
5 parent or legal guardian may decline to purchase the benefits or to  
6 permit the mother to purchase the benefits. The offered coverage  
7 shall include the mother's prenatal, postnatal and maternity care  
8 and the infant child's pediatric care, and shall continue either  
9 until the mother turns eighteen years of age, graduates from high  
10 school or until the child turns one year old, whichever event last  
11 occurs.

12 (b) If the mother's parents or legal guardians have no  
13 insurance coverage through any policy, provision, contract, plan or  
14 agreement, or decline to purchase benefits available under this  
15 section, then the infant child's father's parents or legal guardians  
16 may secure coverage for maternal and pediatric care, as defined  
17 under this section, for the infant and the infant's mother through  
18 any policy, provision, contract, plan or agreement under which they  
19 have coverage. The father's subscriber or member parent or legal  
20 guardian may decline to purchase the benefits or to permit the  
21 mother to purchase the benefits.

22 (c) In order for the mother to secure coverage for herself and  
23 her child, under the provisions of this subsection, either she or  
24 the child's father must be enrolled in secondary school and living

1 with his or her parents or legal guardians.

2 (d) To the extent that the provisions of this section require  
3 benefits that exceed the essential health benefits specified under  
4 section 1302(b) of the Patient Protection and Affordable Care Act,  
5 Pub. L. No. 111-148, as amended, the specific benefits that exceed  
6 the specified essential health benefits shall not be required of a  
7 health benefit plan when the plan is offered by a health maintenance  
8 organization in this state.

NOTE: The purpose of this bill is to require the Public Employees Insurance Agency, insurers offering accident and sickness insurance, insurers offering group accident and sickness insurance, hospital, medical, dental and health service corporations and requiring health maintenance organizations offering plans to provide optional maternity and pediatric benefits to dependent mothers covered under the article, and their children, either through a parent or legal guardian or the parent or legal guardian of an infant's father.

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

§5-16-7f, §33-16-3w, §33-24-7i and §33-25A-8k are new; therefore, they have been completely underscored.