

Senate Bill No. 384

(By Senators Tucker, Stollings and Barnes)

[Introduced January 20, 2014; referred to the Committee on
Banking and Insurance; and then to the Committee on the
Judiciary.]

11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §33-15-22; to amend
13 and reenact §33-16-3q of said code; to amend and reenact
14 §33-24-7h of said code; to amend and reenact §33-25-8f of said
15 code; and to amend and reenact §33-25A-8g of said code, all
16 relating generally to group accident and sickness insurance;
17 hospital service corporations, medical service corporations,
18 dental service corporations, health service corporations,
19 health care corporations and health maintenance organizations;
20 and prohibiting certain contracts of insurance from requiring
21 subscribers to obtain prescription drugs from a mail-order
22 pharmacy in order to obtain benefits for drugs.

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

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new section, designated §33-15-22; that
3 §33-16-3q of said code be amended and reenacted; that §33-24-7h of
4 said code be amended and reenacted; that §33-25-8f of said code be
5 amended and reenacted; and that §33-25A-8g of said code be amended
6 and reenacted, all to read as follows:

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

8 **§33-15-22. Required use of mail-order pharmacy prohibited.**

9 (a) An insurer issuing accident and sickness policies under
10 this article may not require any person covered under a contract
11 which provides coverage for prescription drugs to obtain the
12 prescription drugs from a mail-order pharmacy in order to obtain
13 benefits for the drugs. A covered person shall be permitted to fill
14 any prescription, at his or her option, at any mail-order pharmacy
15 or network participating nonmail-order pharmacy if the network
16 participating nonmail-order pharmacy offers to accept a price that
17 is comparable to that of the mail-order pharmacy. Any policy or
18 contract providing coverage for prescriptions drugs shall not
19 impose a copayment fee or other condition on any covered person who
20 elects to purchase drugs from a network participating nonmail-order
21 pharmacy which is not also imposed on purchases from a mail-order
22 pharmacy.

23 (b) A corporation may not violate the provisions of subsection

1 (a) of this section through the use of an agent or contractor or
2 through the action of an administrator of prescription drug
3 benefits.

4 (c) The Insurance Commissioner may propose rules for
5 legislative approval in accordance with the provisions of article
6 three, chapter twenty-nine-a of this code to implement and enforce
7 the provisions of this section.

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

9 **§33-16-3q. Required use of mail-order pharmacy prohibited.**

10 (a) An insurer issuing group accident and sickness policies in
11 this state pursuant to the provisions of this article may not
12 require any person covered under a contract which provides coverage
13 for prescription drugs to obtain the prescription drugs from a
14 mail-order pharmacy in order to obtain benefits for the drugs. A
15 covered person shall be permitted to fill any prescription, at his
16 or her option, at any mail-order pharmacy or network participating
17 nonmail-order pharmacy if the network participating nonmail-order
18 pharmacy offers to accept a price that is comparable to that of the
19 mail-order pharmacy. Any policy or contract providing coverage for
20 prescriptions drugs shall not impose a copayment fee or other
21 condition on any covered person who elects to purchase drugs from
22 a network participating nonmail-order pharmacy which is not also
23 imposed on purchases from a mail-order pharmacy.

1 (b) An insurer may not violate the provisions of subsection
2 (a) of this section through the use of an agent or contractor or
3 through the action of an administrator of prescription drug
4 benefits.

5 (c) The Insurance Commissioner may propose rules for
6 legislative approval in accordance with the provisions of article
7 three, chapter twenty-nine-a of this code to implement and enforce
8 the provisions of this section.

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

12 **§33-24-7h. Required use of mail-order pharmacy prohibited.**

13 (a) A corporation defined in section two of this article may
14 not require any person covered under a contract which provides
15 coverage for prescription drugs to obtain the prescription drugs
16 from a mail-order pharmacy in order to obtain benefits for the
17 drugs. A covered person shall be permitted to fill any
18 prescription, at his or her option, at any mail-order pharmacy or
19 network participating nonmail-order pharmacy if the network
20 participating nonmail-order pharmacy offers to accept a price that
21 is comparable to that of the mail-order pharmacy. Any policy or
22 contract providing coverage for prescriptions drugs shall not
23 impose a copayment fee or other condition on any covered person who

1 elects to purchase drugs from a network participating nonmail-order
2 pharmacy which is not also imposed on purchases from a mail-order
3 pharmacy.

4 (b) A corporation may not violate the provisions of subsection
5 (a) of this section through the use of an agent or contractor or
6 through the action of an administrator of prescription drug
7 benefits.

8 (c) The Insurance Commissioner may propose rules for
9 legislative approval in accordance with the provisions of article
10 three, chapter twenty-nine-a of this code to implement and enforce
11 the provisions of this section.

12 **ARTICLE 25. HEALTH CARE CORPORATIONS.**

13 **§33-25-8f. Required use of mail-order pharmacy prohibited.**

14 (a) A health care corporation issuing a contract under the
15 provisions of this article may not require any person covered under
16 a contract which provides coverage for prescription drugs to obtain
17 the prescription drugs from a mail-order pharmacy in order to
18 obtain benefits for the drugs. A covered person shall be permitted
19 to fill any prescription, at his or her option, at any mail-order
20 pharmacy or network participating nonmail-order pharmacy if the
21 network participating nonmail-order pharmacy offers to accept a
22 price that is comparable to that of the mail-order pharmacy. Any
23 policy or contract providing coverage for prescriptions drugs shall

1 not impose a copayment fee or other condition on any covered person
2 who elects to purchase drugs from a network participating
3 nonmail-order pharmacy which is not also imposed on purchases from
4 a mail-order pharmacy.

5 (b) A health care corporation may not violate the provisions
6 of subsection (a) of this section through the use of an agent or
7 contractor or through the action of an administrator of
8 prescription drug benefits.

9 (c) The Insurance Commissioner may propose rules for
10 legislative approval in accordance with the provisions of article
11 three, chapter twenty-nine-a of this code to implement and enforce
12 the provisions of this section.

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

14 **§33-25A-8g. Required use of mail-order pharmacy prohibited.**

15 (a) A health maintenance organization issuing coverage in this
16 state pursuant to the provisions of this article may not require
17 any person covered under a contract which provides coverage for
18 prescription drugs to obtain the prescription drugs from a
19 mail-order pharmacy in order to obtain benefits for the drugs. A
20 covered person shall be permitted to fill any prescription, at his
21 or her option, at any mail-order pharmacy or network participating
22 nonmail-order pharmacy if the network participating nonmail-order
23 pharmacy offers to accept a price that is comparable to that of the

1 mail-order pharmacy. Any policy or contract providing coverage for
2 prescriptions drugs shall not impose a copayment fee or other
3 condition on any covered person who elects to purchase drugs from
4 a network participating nonmail-order pharmacy which is not also
5 imposed on purchases from a mail-order pharmacy.

6 (b) A health maintenance organization may not violate the
7 provisions of subsection (a) of this section through the use of an
8 agent or contractor or through the action of an administrator of
9 prescription drug benefits.

10 (c) The Insurance Commissioner may propose rules for
11 legislative approval in accordance with the provisions of article
12 three, chapter twenty-nine-a of this code to implement and enforce
13 the provisions of this section.

NOTE: The purpose of this bill is to prohibit certain insurers
from requiring persons covered under an insurance contract to use
a mail-order pharmacy.

§33-15-22 is new; therefore, strike-throughs and underscoring
have been omitted.

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