1 **Senate Bill No. 490**

2 (By Senators Tucker, D. Hall, Green and Barnes)

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4 [Introduced February 5, 2014; referred to the Committee on

5 Banking and Insurance; and then to the Committee on the

6 Judiciary.]

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11 A BILL to amend the Code of West Virginia, 1931, as amended, by

12 adding thereto a new section, designated §33-6-38, relating to

13 defining certain key terms; prohibiting insurers from

14 requiring optometrists, ophthalmologists, dentists,

15 chiropractors, podiatrists or any other health care

16 professional to provide discounts on noncovered services;

17 prohibiting optometrists, ophthalmologists, dentists,

18 chiropractors, podiatrists or any other health care

19 professional from charging more for covered persons on

20 noncovered services than his or her customary or usual rate

21 for such services; requiring contractual discounts that do not

22 result in a fee that is less than what an insurer would pay an

23 optometrist, ophthalmologist, dentist, chiropractor,

24 podiatrist or any other health care professional for covered

1 services and materials; and providing that insurers may not
2 provide for a nominal reimbursement for a service in order to
3 claim that a service or material is covered.
4 *Be it enacted by the Legislature of West Virginia:*
5 That the Code of West Virginia, 1931, as amended, be amended
6 by adding thereto a new section, designated §33-6-38, to read as
7 follows:
8 **ARTICLE 6. THE INSURANCE POLICY.**
9 **§33-6-38. Noncovered discounts.**
10 (a) For the purposes of this section:
11 (1) "Covered services" means services and materials for which
12 reimbursement from a vision plan, dental plan or health benefit
13 policy is provided by an enrollee's plan contract, or for which a
14 reimbursement would be available but for the application of the
15 enrollee's contractual limitations of deductibles, copayments, and
16 coinsurance.
17 (2) "Contractual discount" means a percentage reduction from
18 a provider's usual and customary rate for covered services and
19 materials required under a participating provider agreement.
20 (3) "Health benefit policy" means any individual or group
21 plan, policy or contract providing medical, hospital or surgical
22 coverage issued, delivered, issued for delivery or renewed in this
23 state by an insurer, after January 1, 2014.
24 (4) "Materials" includes, but is not limited to, any material

1 or device utilized within the scope of practice of a health care
2 professional.
3 (b) No agreement between an insurer or an entity that writes
4 a health benefit policy, vision insurance or dental insurance and
5 an optometrist, ophthalmologist, dentist, chiropractor, podiatrist
6 or any other health care professional for the provision of any
7 services on a preferred or in-network basis to plan members or
8 insurance subscribers in connection with any health benefit policy
9 may require that such professional provide services or materials at
10 a fee limited or set by the plan or insurer unless the services or
11 materials are reimbursed as covered services under the contract.
12 (c) An optometrist, ophthalmologist, dentist, chiropractor,
13 podiatrist or any other health care professional may not charge
14 more for services and materials that are noncovered services under
15 any health benefits policy than his or her usual and customary rate
16 for those services and materials.
17 (d) The amount of a contractual discount may not result in a
18 fee less than the health benefits policy would pay for covered
19 services and materials but for the application of an enrollee's
20 contractual limitations of deductibles, copayments, and
21 coinsurance.
22 (e) Reimbursement paid by the health benefit policy, vision
23 plan or dental plan for covered services and materials shall be
24 reasonable and may not provide nominal reimbursement in order to

1 claim that services and materials are covered services.

NOTE: The purpose of this bill is to provide that insurers may not contractually require optometrists, ophthalmologists, dentists, chiropractors, podiatrists or any other health care professional to provide a discount on services such insurers do not cover under the plan; to require health care professionals to charge no more to covered persons for noncovered services and materials than his or her customary rate, requiring that discounts will not result in a fee that is less than what an insurer would pay for covered services and prohibiting insurers from paying nominal reimbursements in order to claim that services or materials are covered services.

This section is new; therefore, strike-throughs and underscoring have been omitted.