H. B. 2215

(By Delegates Householder, Ellington, Butler, Cooper, Espinosa, Frich, Hill, Ihle, Sobonya, Summers and Waxman)

[Introduced January 22, 2015; referred to the Committee on Health and Human Resources then the Judiciary.]

A BILL to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-49-1, §33-49-2, §33-49-3 and §33-49-4, all relating to the West Virginia Health Benefit Exchange; defining terms; requiring certain information to be disclosed to the public; establishing patient protections; requiring annual reports and giving rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §33-49-1, §33-49-2, §33-49-3 and §33-49-4, all to read as follows:

ARTICLE 49. PATIENT PROTECTION AND TRANSPARENCY ACT.

§33-49-1. Definitions.

For the purposes of this article, the following words and terms mean the following:

(1) "Commissioner" means the West Virginia Insurance Commissioner.

(2) "Consumer" means an individual or family purchasing insurance coverage through the exchange.

(3) "Discriminatory practice" means the exclusion from or failure or refusal to extend to any consumer equal opportunities or any difference in the treatment by reason of age, life expectancy, race, color, national origin, sex, gender identity, sexual orientation, present or predicted disability, degree of medical dependency, quality of life, present or predicted diagnosis, disease or health condition.

(4) "Essential health benefits" means the set of health care service categories that must be covered by health plans participating in the exchange.

(5) "Exchange" means the West Virginia Health Benefit Exchange.

(6) "Health care provider" means a provider of medical or health services, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

(7) "Health plan" means an individual or group insurer that provides, or pays the cost of, medical care through its participation in the exchange.

(8) "Network" means a group of health care providers that have contracted with a health plan to provide care at a discounted rate.

(9) "West Virginia Health Benefit Exchange" means the government-regulated marketplace of health plans with different multiple levels of coverage offered to individuals and small businesses.

§33-49-2. Information available to the public and disclosures required of health plans.

The commissioner shall publish on his or her website and the West Virginia Health Benefit Exchange shall publish on its website the following information about each health plan offered for sale on the exchange:

(1) The names of all physicians, hospitals and other health care providers that are in network;

(2) A list of all the types of specialists that are in network;

(3) Any exclusion from coverage in each category of benefits;

(4) Any restrictions on use or quantity of covered items and services in each category of benefits;

(5) A description of how medications will specifically be included in or excluded from the deductible, including a description of out-of-pocket costs that may not apply to the deductible for a medication;

(6) The specific dollar amount of any copay or percentage coinsurance for each item or service;

(7) The ability to determine whether a specific drug is available on formulary, the applicable cost-sharing requirement, whether a specific drug is covered when furnished by a physician or clinic, and any clinical prerequisites or authorization requirements for coverage of a drug;

(8) The process for a patient to appeal a health plan decision where an item or service prescribed or ordered by the treating physician has been denied; and

(9) An explanation of the amount of coverage for out of network providers or noncovered services, and any rights of appeal that exist when out of network providers or noncovered services are medically necessary.

§33-49-3. Prevention of discriminatory practices; annual report.

(a) The commissioner shall submit an annual report by December 31 of each year to the Governor, President of the Senate and Speaker of the House detailing and evaluating each health plan for sale to consumers through the exchange.

(b) The annual report shall provide:

(1) A description of each health plan's compliance with the required coverage of essential health benefits;

(2) Whether any health plan employed discriminatory practices, any corrective measures taken by the commissioner, and whether the corrective measures rectified the discriminatory practices;

(3) An assessment of health plans to ensure they do not impermissibly impose clinical prerequisites by limiting care available to those who are sicker, or who have a shorter life expectancy, including consideration of benefit design features such as:

(A) The categories of benefits included;

(B) Specific exclusion of named therapies or conditions;

(C) The manner in which coverage decisions are made;

(D) Differential reimbursement rates or cost sharing for covered benefits;

(E) Clinical prerequisites or heightened administrative requirements based on the patient's disease, disability, quality or expected length of life;

(F) Incentive programs; and

(G) The burdensomeness or delay of an applicable exceptions process.

(4) To the extent that discriminatory practices are identified in existing health plans during the course of a plan year, the report shall identify such practices in detail and shall identify the steps taken to prevent such discriminatory practices from being approved as part of future plan offerings.

(c) Each report shall be published on the West Virginia Insurance Commission website upon completion.

§33-49-4. Rule-making authority.

The commissioner shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including disciplinary actions and administrative penalties for health plans utilizing discriminatory practices and for health plans failing to provide the information requested by the requirements of this article.

NOTE: The purpose of the bill is to establish certain protections for individuals seeking health care coverage through the WV Health Benefit Exchange. It also requires certain information to be published on the WV Health Benefit Exchange website in order to better inform consumers.

This article is new; therefore, it has been completely underscored.