

**H. B. 2493**

(By Delegates McCuskey, Westfall, Ashley, Bates, Ellington, Frich,  
Householder, Perdue, Sobonya, Walters and Rohrbach)

[Introduced January 28, 2015; referred to the

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

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating to requirements for insurance policies and contracts providing accident and sickness insurance or direct health care services that cover anti-cancer medications; prohibiting higher copayments, deductibles or coinsurance for orally administered anti-cancer medications than is required for anti-cancer medications administered by injection or intravenously; prohibiting certain acts to comply with the requirements; defining “anti-cancer medications”; providing an effective date of January 1, 2016; and allowing cost containment measures necessary to maintain costs of compliance to below two percent of the total costs for the coverage.

*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

1 section, designated §33-15-4l; that said code be amended by adding thereto a new section, designated  
2 §33-16-3x; that said code be amended by adding thereto a new section, designated §33-24-7m; that  
3 said code be amended by adding thereto a new section, designated §33-25-8j; and that said code be  
4 amended by adding thereto a new section, designated §33-25A-8l, all to read as follows:

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

6 **§33-15-4l. Deductibles, copayments and coinsurance for anti-cancer medications.**

7 (a) Any accident and sickness insurance policy issued by an insurer pursuant to this article  
8 that covers anti-cancer medications that are injected or intravenously administered by a health care  
9 provider and patient administered anti-cancer medications, including, but not limited to, those  
10 medications orally administered or self-injected, may not require a higher copayment, deductible or  
11 coinsurance amount for patient administered anti-cancer medications than it requires for injected or  
12 intravenously administered anti-cancer medications, regardless of the formulation or benefit category  
13 determination by the policy or plan.

14 (b) An accident or sickness insurance policy may not comply with subsection (a) of this  
15 section by:

16 (1) Increasing the copayment, deductible or coinsurance amount required for injected or  
17 intravenously administered anti-cancer medications that are covered under the policy or plan; or

18 (2) Reclassifying benefits with respect to anti-cancer medications.

19 (c) As used in this section, “anti-cancer medication” means drugs and biologics that are used  
20 or administered to kill, slow or prevent the growth of cancerous cells.

21 (d) This section is effective January 1, 2016. This section applies to all group accident and  
22 sickness insurance policies and plans subject to this article that are delivered, executed, issued,

1 amended, adjusted or renewed in this state, or outside this state if insuring residents of this state, on  
2 and after the effective date of this section.

3 (e) Notwithstanding any other provision in this section to the contrary, in the event that an  
4 insurer can demonstrate actuarially to the Insurance Commissioner that its total costs for compliance  
5 with this section will exceed or have exceeded two percent of the total costs for all accident and  
6 sickness insurance coverage issued by the insurer subject to this article in any experience period, then  
7 the insurer may apply whatever cost containment measures may be necessary to maintain costs below  
8 two percent of the total costs for the coverage: *Provided*, That the cost containment measures  
9 implemented are applicable only for the plan year or experience period following approval of the  
10 request to implement cost containment measures.

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

12 **§33-16-3x. Deductibles, copayments and coinsurance for anti-cancer medications.**

13 (a) Any group accident and sickness insurance policy issued by an insurer pursuant to this  
14 article that covers anti-cancer medications that are injected or intravenously administered by a health  
15 care provider and patient administered anti-cancer medications, including, but not limited to, those  
16 medications orally administered or self-injected, may not require a higher copayment, deductible or  
17 coinsurance amount for patient administered anti-cancer medications than it requires for injected or  
18 intravenously administered anti-cancer medications, regardless of the formulation or benefit category  
19 determination by the policy or plan.

20 (b) A group accident and sickness insurance policy may not comply with subsection (a) of  
21 this section by:

22 (1) Increasing the copayment, deductible or coinsurance amount required for injected or

1 intravenously administered anti-cancer medications that are covered under the policy or plan; or

2 (2) Reclassifying benefits with respect to anti-cancer medications.

3 (c) As used in this section, “anti-cancer medication” means drugs and biologics that are used  
4 or administered to kill, slow or prevent the growth of cancerous cells.

5 (d) This section is effective January 1, 2016. This section applies to all group accident and  
6 sickness insurance policies and plans subject to this article that are delivered, executed, issued,  
7 amended, adjusted or renewed in this state, or outside this state if insuring residents of this state, on  
8 and after the effective date of this section.

9 (e) Notwithstanding any other provision in this section to the contrary, in the event that an  
10 insurer can demonstrate actuarially to the Insurance Commissioner that its total anticipated costs for  
11 any plan to comply with this section will exceed or have exceeded two percent of the total costs for  
12 such plan in any experience period, then the insurer may apply whatever cost containment measures  
13 may be necessary to maintain costs below two percent of the total costs for the plan: *Provided, That*  
14 such cost containment measures implemented are applicable only for the plan year following  
15 approval of the request to implement cost containment measures.

16 **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE**  
17 **CORPORATIONS, DENTAL SERVICE CORPORATIONS AND**  
18 **HEALTH SERVICE CORPORATIONS.**

19 **§33-24-7m. Deductibles, copayments and coinsurance for anti-cancer medications.**

20 (a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to  
21 which this article applies, any group accident and sickness insurance policy, plan, contract or  
22 agreement issued by an entity regulated by this article that covers anti-cancer medications that are

1 injected or intravenously administered by a health care provider and patient administered anti-cancer  
2 medications, including, but not limited to, those medications orally administered or self-injected,  
3 may not require a higher copayment, deductible or coinsurance amount for patient administered  
4 anti-cancer medications than it requires for injected or intravenously administered anti-cancer  
5 medications, regardless of the formulation or benefit category determination by the policy or plan.

6 (b) An accident or sickness insurance policy, plan, contract or agreement may not comply  
7 with subsection (a) of this section by:

8 (1) Increasing the copayment, deductible or coinsurance amount required for injected or  
9 intravenously administered anti-cancer medications that are covered under the policy or plan; or

10 (2) Reclassifying benefits with respect to anti-cancer medications.

11 (c) As used in this section, “anti-cancer medication” means drugs and biologics that are used  
12 or administered to kill, slow or prevent the growth of cancerous cells.

13 (d) This section is effective January 1, 2016. This section applies to all group accident and  
14 sickness insurance policies and plans subject to this article that are delivered, executed, issued,  
15 amended, adjusted or renewed in this state, or outside this state if insuring residents of this state, on  
16 and after the effective date of this section.

17 (e) Notwithstanding any other provision in this section to the contrary, in the event that an  
18 entity subject to this article can demonstrate actuarially to the Insurance Commissioner that its total  
19 anticipated costs for any policy, plan, contract or agreement to comply with this section will exceed  
20 or have exceeded two percent of the total costs for such policy, plan, contract or agreement in any  
21 experience period, then the entity may apply whatever cost containment measures may be necessary  
22 to maintain costs below two percent of the total costs for the policy, plan, contract or agreement:

1 Provided, That such cost containment measures implemented are applicable only for the plan year  
2 or experience period following approval of the request to implement cost containment measures.

3 **ARTICLE 25. HEALTH CARE CORPORATIONS.**

4 **§33-25-8j. Deductibles, copayments and coinsurance for anti-cancer medications.**

5 (a) Notwithstanding any provision of any policy, contract, plan or agreement to which this  
6 article applies, a policy, contract, plan or agreement issued to a member or subscriber by an entity  
7 regulated by this article that covers anti-cancer medications that are injected or intravenously  
8 administered by a health care provider and patient administered anti-cancer medications, including,  
9 but not limited to, those medications orally administered or self-injected, may not require a higher  
10 copayment, deductible or coinsurance amount for patient administered anti-cancer medications than  
11 it requires for injected or intravenously administered anti-cancer medications, regardless of the  
12 formulation or benefit category determination by the policy, contract, plan or agreement.

13 (b) A contract issued to a member or subscriber that is subject to this article may not comply  
14 with subsection (a) of this section by:

15 (1) Increasing the copayment, deductible or coinsurance amount required for injected or  
16 intravenously administered anti-cancer medications that are covered under the policy, contract, or  
17 plan or agreement; or

18 (2) Reclassifying benefits with respect to anti-cancer medications.

19 (c) As used in this section, “anti-cancer medication” means drugs and biologics that are used  
20 or administered to kill, slow or prevent the growth of cancerous cells.

21 (d) This section is effective January 1, 2016. This section applies to all policies, plans,  
22 contracts or agreements subject to this article that are delivered, executed, issued, amended, adjusted

1 or renewed in this state, or outside this state if insuring residents of this state, on and after the  
2 effective date of this section.

3 (e) Notwithstanding any other provision in this section to the contrary, in the event that an  
4 entity subject to this article can demonstrate actuarially to the Insurance Commissioner that its total  
5 anticipated costs for benefits to all members or subscribers to comply with this section will exceed  
6 or have exceeded two percent of the total costs for all benefits of the policy, plan, contract or  
7 agreement in any experience period, then the entity may apply whatever cost containment measures  
8 may be necessary to maintain costs below two percent of the total costs for the policy, plan, contract  
9 or agreement: *Provided*, That such cost containment measures implemented are applicable only for  
10 the plan year or experience period following approval of the request to implement cost containment  
11 measures.

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

13 **§33-25A-8I. Deductibles, copayments and coinsurance for anti-cancer medications.**

14 (a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to  
15 which this article applies, any policy, contract, plan or agreement issued by a health maintenance  
16 organization pursuant to this article that covers anti-cancer medications that are injected or  
17 intravenously administered by a health care provider and patient administered anti-cancer  
18 medications, including, but not limited to, those medications orally administered or self-injected,  
19 may not require a higher copayment, deductible or coinsurance amount for patient administered  
20 anti-cancer medications than it requires for injected or intravenously administered anti-cancer  
21 medications, regardless of the formulation or benefit category determination by the policy, contract,  
22 plan or agreement.

1 (b) A policy, contract, plan or agreement or a health maintenance organization may not  
2 comply with subsection (a) of this section by:

3 (1) Increasing the copayment, deductible or coinsurance amount required for injected or  
4 intravenously administered anti-cancer medications that are covered under the policy, contract, or  
5 plan or agreement; or

6 (2) Reclassifying benefits with respect to anti-cancer medications.

7 (c) As used in this section, “anti-cancer medication” means drugs and biologics that are used  
8 or administered to kill, slow or prevent the growth of cancerous cells.

9 (d) This section is effective January 1, 2016. This section applies to all policies, contracts,  
10 plans or agreements subject to this article that are delivered, executed, issued, amended, adjusted or  
11 renewed in this state, or outside this state if insuring residents of this state, on and after the effective  
12 date of this section.

13 (e) Notwithstanding any other provision in this section to the contrary, in the event that a  
14 health maintenance organization subject to this article can demonstrate actuarially to the Insurance  
15 Commissioner that its total anticipated costs for any health maintenance contract to comply with this  
16 section will exceed or have exceeded two percent of the total costs for the policy, contract, plan or  
17 agreement in any experience period, then the health maintenance organization may apply whatever  
18 cost containment measures may be necessary to maintain costs below two percent of the total costs  
19 for the policy, contract, plan or agreement: *Provided, That such cost containment measures*  
20 implemented are applicable only for the plan year or experience period following approval of the  
21 request to implement cost containment measures.

NOTE: The purpose of this bill is to prohibit insurance policies and contracts providing accident and sickness insurance or direct health care services that cover anti-cancer medications from charging higher copayments, deductibles or coinsurance for orally administered anti-cancer medications than is required for anti-cancer medications administered by injection or intravenously. Certain acts to comply with the requirements are prohibited; The requirements apply to policies or contracts that are issued or renewed after January 1, 2016. The bill also allows for cost containment measures if the cost of compliance exceeds two per cent of the total cost of coverage.

§33-15-4l, §33-16-3x, §33-24-7m,§33-25-8j and §33-25A-8l are new; therefore they have been completely underscored.