

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2440

2015 Carryover

(BY DELEGATES FRICH, HOUSEHOLDER, ARVON,
ELLINGTON, BUTLER, ROHRBACH, SOBONYA, WAXMAN,
WESTFALL, KURCABA AND SHOTT)

[Introduced January 13, 2016; referred to the
Committee on Health and Human Resources then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §9-2-11a, relating to preventing taxpayer subsidization of health insurance
 3 covering elective abortions; prohibiting all qualified health plans offered through a state
 4 exchange from including abortion coverage except to prevent the death of the mother; and
 5 preventing all other health plans, including health insurance contracts, plans or policies,
 6 offered outside of the exchange, but within the state, from providing coverage for elective
 7 abortions except by optional separate supplemental coverage for abortion.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §9-2-11a, to read as follows:

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND
 RESPONSIBILITIES GENERALLY.**

**§9-2-11a. Preventing taxpayer subsidization of health insurance covering elective
 abortions; abortion coverage only offered through supplemental policies.**

1 (a) Pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No.
 2 111-148, all qualified health plans offered through an exchange established in the state are
 3 prohibited from including elective abortion coverage. Nothing in this section prevents anyone from
 4 purchasing optional supplemental coverage for elective abortions for which there is paid a
 5 separate premium in accordance with subsection (d) of this section in the health insurance market
 6 outside of the exchange.

7 (b) No health plan, including health insurance contracts, plans or policies, offered outside
 8 an exchange but within the state, may provide coverage for elective abortions except by optional
 9 separate supplemental coverage for abortion for which there is paid a separate premium in
 10 accordance with subsection (d) of this section.

11 (c) For purposes of this section, an "elective abortion" means an abortion for any reason
12 other than to prevent the death of the mother: *Provided*, That an abortion is not one to prevent
13 the death of the mother based on a claim or diagnosis that she will engage in conduct that will
14 result in her death.

15 (d) The issuer of any health plan providing elective abortion coverage:

16 (1) Shall calculate the premium for coverage so that it fully covers the estimated cost of
17 covering elective abortions, per enrollee, determined on an average actuarial basis, and the issuer
18 of the plan may not take into account any cost reduction in a health plan covering an enrollee
19 estimated to result from the provision of abortion coverage, including prenatal care, delivery, or
20 postnatal care;

21 (2) If the enrollee is enrolling in a health plan providing other coverage at the same time
22 as the enrollee is enrolling in a plan providing elective abortion coverage, shall require a separate
23 signature, distinct from that to enroll in the health plan providing other coverage, in order to enroll
24 in the separate supplemental plan providing elective abortion coverage.

25 (3) Shall provide a notice to enrollees, at the time of enrollment, that:

26 (A) Specifically states the cost of the separate premium for coverage of elective abortions,
27 distinct and apart from the cost of the premium for a health plan providing other coverage and this
28 cost shall be agreed with a separate signature;

29 (B) States that enrollment in elective abortion coverage is optional; and

30 (C) If the enrollee is enrolling in a health plan providing other coverage at the same time
31 the enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee
32 may choose to enroll in the plan providing other coverage without enrolling in the plan providing
33 elective abortion coverage.

34 (e) The issuer of a health plan providing coverage other than elective abortion shall not

35 discount or reduce the premium for such coverage on the basis that an enrollee has elective
36 abortion coverage.

37 (f) Any employer who offers employees a health plan providing elective abortion coverage
38 shall, at the time of beginning employment and at least once in each calendar year thereafter,
39 provide each employee the option to choose or reject the separate supplemental elective abortion
40 coverage, verified yearly with a separate signature.

41 (g) Any entity offering a group health plan providing separate supplemental elective
42 abortion coverage, other than employers offering such a plan to their employees, shall, at the time
43 each group member begins coverage and at least once in each calendar year thereafter, provide
44 each group member the option to choose or reject the separate supplemental elective abortion
45 coverage.

46 (h) Nothing in this section applies in circumstances in which federal law preempts state
47 health insurance regulation.

48 (i) No funds from the Medicaid program account may be expended for an abortion or for
49 any related expenses except to the extent required by federal law or necessary for continued
50 participation in a federal program.

51 (j) If any one or more provision, section, subsection, sentence, clause, phrase or word of
52 this section or the application thereof to any person or circumstance is found to be
53 unconstitutional, the same is hereby declared to be severable and the balance of this section
54 remains effective notwithstanding such unconstitutionality. The Legislature hereby declares that
55 it would have passed this section, and each provision, section, subsection, sentence, clause,
56 phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection,
57 sentence, clause, phrase, or word be declared unconstitutional.

NOTE: The purpose of this bill is to limit health insurance coverage for elective abortions to coverage provided through supplemental policies.

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