

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2770**

BY DELEGATES ROHRBACH, ELLINGTON, BARRETT,  
QUEEN, WAXMAN, BYRD, WESTFALL, NELSON AND  
PORTERFIELD

[Passed March 9, 2019; in effect ninety days from  
passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §33-15-4t; to amend said code by adding thereto a new section, designated  
3 §33-16-3ee; to amend said code by adding thereto a new section, designated §33-24-7t;  
4 to amend said code by adding thereto a new section, designated §33-25-8q; and to amend  
5 said code by adding thereto a new section, designated §33-25A-8t, all relating to  
6 establishing the Fairness in Cost-Sharing Calculation Act; providing for definitions;  
7 establishing health plan cost sharing calculations; establishing pharmacy benefits cost  
8 sharing calculations; providing for an effective date; and providing for rule-making  
9 authority.

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

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

**§33-15-4t. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Drug” means the same as the term is defined in §30-5-4(19).

5 “Person” means a natural person, corporation, mutual company, unincorporated  
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this  
9 code.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after  
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to  
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on  
22 or after the effective date of this section.

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

### **§33-16-3ee. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Drug” means the same as the term is defined in §30-5-4(19).

5 “Person” means a natural person, corporation, mutual company, unincorporated  
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this  
9 code.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after  
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to  
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on  
22 or after the effective date of this section.

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

**§33-24-7t. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Drug” means the same as the term is defined in §30-5-4(19).

5 “Person” means a natural person, corporation, mutual company, unincorporated  
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this  
9 code.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after  
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to  
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on  
22 or after the effective date of this section.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8q. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Drug” means the same as the term is defined in §30-5-4(19).

5 “Person” means a natural person, corporation, mutual company, unincorporated  
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this  
9 code.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after  
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to  
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on  
22 or after the effective date of this section.

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

### **§33-25A-8t. Fairness in Cost-Sharing Calculation.**

1 (a) As used in this section:

2 “Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf  
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 “Drug” means the same as the term is defined in §30-5-4(19).

5 “Person” means a natural person, corporation, mutual company, unincorporated  
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit  
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 “Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this  
9 code.

10 (b) When calculating an insured’s contribution to any applicable cost sharing requirement,  
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)  
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of  
14 the insured by another person; and

15 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the  
16 insured or on behalf of the insured by another person.

17 (c) The commissioner is authorized to propose rules for legislative approval in accordance  
18 with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19           (d) This section is effective for policy, contract, plans, or agreements beginning on or after  
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to  
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on  
22 or after the effective date of this section.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2019.

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*Governor*