

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3277

BY DELEGATE BATES

[Introduced March 16, 2021; Referred to the
Committee on Banking and Insurance then the
Judiciary]

1 A BILL to amend and reenact §33-45-1 of the Code of West Virginia, 1931, as amended, relating
 2 to ethics and fairness in insurer business practices; modifying the definition of health plan
 3 under this section to include worker’s compensation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 45. ETHICS AND FAIRNESS IN INSURER BUSINESS PRACTICES.

§33-45-1. Definitions.

1 As used in this article:

2 (1) “Claim” means each individual request for reimbursement or proof of loss made by or
 3 on behalf of an insured or a provider to an insurer, or its intermediary, administrator or
 4 representative, with which the provider has a provider contract for payment for health care
 5 services under any health plan.

6 (2) “Clean claim” means a claim:

7 (A) That has no material defect or impropriety, including all reasonably required
 8 information and substantiating documentation, to determine eligibility or to adjudicate the claim;
 9 or

10 (B) With respect to which an insurer has failed timely to notify the person submitting the
 11 claim of any such defect or impropriety in accordance with section two of this article.

12 (3) “Commissioner” means the Insurance Commissioner of West Virginia.

13 (4) “Health care services” means items or services furnished to any individual for the
 14 purpose of preventing, alleviating, curing, or healing human illness, injury or physical or mental
 15 disability.

16 (5) “Health plan” means any individual or group health care plan, subscription contract,
 17 evidence of coverage, certificate, health services plan; medical or hospital services plan as
 18 defined in article twenty four of this chapter; accident and sickness insurance policy or certificate;
 19 managed care health insurance plan, or health maintenance organization subject to state
 20 regulation pursuant to §33-25a-1 *et seq.* of this code; which is offered, arranged, issued or

21 administered in the state by an insurer authorized under this chapter, a third-party administrator
22 or an intermediary. Health plan does not mean:

23 (A) Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §1395
24 *et seq.* (Medicare), Title XIX of the Social Security Act, 42 U.S.C. §1396 *et seq.* or Title XX of the
25 Social Security Act, 42 U.S.C. §1397 *et seq.* (Medicaid), 5 U.S.C. §8901 *et seq.*, or 10 U.S.C.
26 §1071 *et seq.* (CHAMPUS); or §5-16-1 *et seq.* of this code (PEIA);

27 (B) Accident only, credit or disability insurance, long-term care insurance, CHAMPUS
28 supplement, Medicare supplement; ~~workers' compensation coverages or limited benefits policy~~
29 ~~as defined in article sixteen-e of this chapter~~ or

30 (C) Any a third-party administrator or an intermediary acting on behalf of providers as
31 denoted in §33-45-1(5)(A) or §33-45-1(5)(B) of this code.

32 (6) "Insured" means a person who is provided health insurance coverage or other health
33 care services coverage from an insurer under a health plan.

34 (7) "Insurer" means any person required to be licensed under this chapter which offers or
35 administers as a third party administrator health insurance; operates a health plan subject to this
36 chapter; or provides or arranges for the provision of health care services through networks or
37 provider panels which are subject to regulation as the business of insurance under this chapter.
38 "Insurer" also includes intermediaries. "Insurer" does not include:

39 (A) Credit accident and sickness insurance;

40 (B) Accident and sickness policies which provide benefits for loss of income due to
41 disability;

42 (C) Any policy of liability of workers' compensation insurance;

43 (D) Hospital indemnity or other fixed indemnity insurance;

44 (E) Life insurance, including endowment or annuity contracts, or contracts supplemental
45 thereto, which contain only provisions relating to accident and sickness insurance that:

46 (i) Provide additional benefits in cases of death by accidental means; or

47 (ii) Operate to safeguard the contracts against lapse, in the event that the insured shall
48 become totally and permanently disabled as defined by the contract or supplemental contract;
49 and

50 (F) Property and casualty insurance.

51 (8) "Provider contract" means any contract between a provider and

52 (A) An insurer;

53 (B) A health plan; or

54 (C) An intermediary, relating to the provision of health care services.

55 (9) "Retroactive denial" means the practice of denying previously paid claims by
56 withholding or setting off against payments, or in any other manner reducing or affecting the future
57 claim payments to the provider, or to seek direct cash reimbursement from a provider for a
58 payment previously made to the provider.

59 (10) "Provider" means a person or other entity which holds a valid license or permit,
60 including a valid temporary license or permit pursuant to chapter 30 of this code, to provide
61 specific health care services in this state.

62 (11) "Intermediary" means a physician, hospital, physician-hospital organization,
63 independent provider organization, or independent provider network which receives
64 compensation for arranging one or more health care services to be rendered by providers to
65 insureds of a health plan or insurer. An intermediary does not include an individual provider or
66 group practice that utilizes only its employees, partners or shareholders and their professional
67 licenses to render services.

NOTE: The purpose of this bill is to modify the definition of health plan as related to ethics
in insurer business practices to include worker's compensation.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.