WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 520

FISCAL NOTE

By Senators Nelson, Deeds, Queen, Barrett,

Hamilton, and Oliverio

[Introduced January 31, 2023; referred

to the Committee on Banking and Insurance; and

then to the Committee on Finance]

1 A BILL to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended, relating to
2 the West Virginia Public Employees Insurance Act; and removing the decrease in the
3 amount of group life and accidental death insurance to which an employee is entitled upon
4 attainment of 65 years of age.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance, and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

1 (a) The director is given exclusive authorization to execute such contract or contracts as
2 are necessary to carry out the provisions of this article and to provide the plan or plans of group
3 hospital and surgical insurance coverage, group major medical insurance coverage, group
4 prescription drug insurance coverage, and group life and accidental death insurance coverage
5 selected in accordance with the provisions of this article, such contract or contracts to be executed
6 with one or more agencies, corporations, insurance companies, or service organizations licensed
7 to sell group hospital and surgical insurance, group major medical insurance, group prescription
8 drug insurance and group life and accidental death insurance in this state.

9 (b) The group hospital or surgical insurance coverage and group major medical insurance
10 coverage herein provided shall include coverages and benefits for x-ray and laboratory services in
11 connection with mammogram and pap smears when performed for cancer screening or diagnostic
12 services and annual checkups for prostate cancer in men age 50 and over. Such benefits shall
13 include, but not be limited to, the following:

14 (1) Mammograms when medically appropriate and consistent with the current guidelines
15 from the United States Preventive Services Task Force;

16 (2) A pap smear, either conventional or liquid-based cytology, whichever is medically
17 appropriate and consistent with the current guidelines from the United States Preventive Services
18 Task Force or The American College of Obstetricians and Gynecologists, for women age 18 and
19 over;

20 (3) A test for the human papilloma virus (HPV) for women age 18 or over, when medically
21 appropriate and consistent with the current guidelines from either the United States Preventive
22 Services Task Force or the American College of Obstetricians and Gynecologists for women age
23 18 and over;

24 (4) A checkup for prostate cancer annually for men age 50 or over; and

25 (5) Annual screening for kidney disease as determined to be medically necessary by a
26 physician using any combination of blood pressure testing, urine albumin or urine protein testing,
27 and serum creatinine testing as recommended by the National Kidney Foundation.

28 (6) Coverage for general anesthesia for dental procedures and associated outpatient
29 hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in
30 conjunction with dental care if the covered person is:

31 (A) Seven years of age or younger or is developmentally disabled and is either an
32 individual for whom a successful result cannot be expected from dental care provided under local
33 anesthesia because of a physical, intellectual, or other medically compromising condition of the
34 individual and for whom a superior result can be expected from dental care provided under general
35 anesthesia; or

36 (B) A child who is 12 years of age or younger with documented phobias, or with
37 documented mental illness, and with dental needs of such magnitude that treatment should not be
38 delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of
39 teeth or other increased oral or dental morbidity and for whom a successful result cannot be
40 expected from dental care provided under local anesthesia because of such condition and for
41 whom a superior result can be expected from dental care provided under general anesthesia.

(7) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq*. or §30-14-1 *et seq*. of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by §5-16-9(b)(7)(A) of this code shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, "medically necessary foods" or "medical foods" shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(c) The group life and accidental death insurance herein provided shall be in the amount of $10,000 for every employee. ~~The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to $5,000 upon such employee attaining age 65.~~

68 (d) All of the insurance coverage to be provided for under this article may be included in
69 one or more similar contracts issued by the same or different carriers.
70 (e) The provisions of §5A-3-1 *et seq*. of this code, relating to the Division of Purchasing of
71 the Department of Finance and Administration, shall not apply to any contracts for any insurance
72 coverage or professional services authorized to be executed under the provisions of this article.
73 Before entering into any contract for any insurance coverage, as authorized in this article, the
74 director shall invite competent bids from all qualified and licensed insurance companies or
75 carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the
76 director shall negotiate and contract directly with healthcare providers and other entities,
77 organizations and vendors in order to secure competitive premiums, prices, and other financial
78 advantages. The director shall deal directly with insurers or healthcare providers and other
79 entities, organizations, and vendors in presenting specifications and receiving quotations for bid
80 purposes. No commission or finder's fee, or any combination thereof, shall be paid to any
81 individual or agent; but this shall not preclude an underwriting insurance company or companies,
82 at their own expense, from appointing a licensed resident agent, within this state, to service the
83 companies' contracts awarded under the provisions of this article. Commissions reasonably
84 related to actual service rendered for the agent or agents may be paid by the underwriting
85 company or companies: *Provided, however*, That in no event shall payment be made to any agent
86 or agents when no actual services are rendered or performed. The director shall award the
87 contract or contracts on a competitive basis. In awarding the contract or contracts the director shall
88 take into account the experience of the offering agency, corporation, insurance company, or
89 service organization in the group hospital and surgical insurance field, group major medical
90 insurance field, group prescription drug field, and group life and accidental death insurance field,
91 and its facilities for the handling of claims. In evaluating these factors, the director may employ the
92 services of impartial, professional insurance analysts or actuaries or both. Any contract executed
93 by the director with a selected carrier shall be a contract to govern all eligible employees subject to

94 the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier
95 from soliciting employees covered hereunder to purchase additional hospital and surgical, major
96 medical or life and accidental death insurance coverage.

97 (f) The director may authorize the carrier with whom a primary contract is executed to
98 reinsure portions of the contract with other carriers which elect to be a reinsurer and who are
99 legally qualified to enter into a reinsurance agreement under the laws of this state.

100 (g) Each employee who is covered under any contract or contracts shall receive a
101 statement of benefits to which the employee, his or her spouse and his or her dependents are
102 entitled under the contract, setting forth the information as to whom the benefits are payable, to
103 whom claims shall be submitted and a summary of the provisions of the contract or contracts as
104 they affect the employee, his or her spouse and his or her dependents.

105 (h) The director may at the end of any contract period discontinue any contract or contracts
106 it has executed with any carrier and replace the same with a contract or contracts with any other
107 carrier or carriers meeting the requirements of this article.

108 (i) The director shall provide by contract or contracts entered into under the provisions of
109 this article the cost for coverage of children's immunization services from birth through age 16
110 years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles,
111 rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional
112 immunizations may be required by the Commissioner of the Bureau for Public Health for public
113 health purposes. Any contract entered into to cover these services shall require that all costs
114 associated with immunization, including the cost of the vaccine, if incurred by the healthcare
115 provider, and all costs of vaccine administration be exempt from any deductible, per visit charge
116 and/or copayment provisions which may be in force in these policies or contracts. This section
117 does not require that other healthcare services provided at the time of immunization be exempt
118 from any deductible and/or copayment provisions.

119 (j) The director shall include language in all contracts for pharmacy benefits management,

120 as defined by §33-51-3 of this code, requiring the pharmacy benefit manager to report quarterly to
121 the agency the following:
122 (1) The overall total amount charged to the agency for all claims processed by the
123 pharmacy benefit manager during the quarter;
124 (2) The overall total amount of reimbursements paid to pharmacy providers during the
125 quarter;
126 (3) The overall total number of claims in which the pharmacy benefits manager reimbursed
127 a pharmacy provider for less than the amount charged to the agency for all claims processed by
128 the pharmacy benefit manager during the quarter; and
129 (4) For all pharmacy claims, the total amount paid to the pharmacy provider per claim,
130 including, but not limited to, the following:
131 (A) The cost of drug reimbursement;
132 (B) Dispensing fees;
133 (C) Copayments; and
134 (D) The amount charged to the agency for each claim by the pharmacy benefit manager.
135 In the event there is a difference between the amount for any pharmacy claim paid to the
136 pharmacy provider and the amount reimbursed to the agency, the pharmacy benefit manager shall
137 report an itemization of all administrative fees, rebates, or processing charges associated with the
138 claim. All data and information provided by the pharmacy benefit manager shall be kept secure,
139 and notwithstanding any other provision of this code to the contrary, the agency shall maintain the
140 confidentiality of the proprietary information and not share or disclose the proprietary information
141 contained in the report or data collected with persons outside the agency. All data and information
142 provided by the pharmacy benefit manager shall be considered proprietary and confidential and
143 exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-
144 4(a)(1) of this code. Only those agency employees involved in collecting, securing, and analyzing
145 the data for the purpose of preparing the report provided for herein shall have access to the

146 proprietary data. The director shall provide a quarterly report to the Joint Committee on
147 Government and Finance and the Joint Committee on Health detailing the information required by
148 this section, including any difference or spread between the overall amount paid by pharmacy
149 benefit managers to the pharmacy providers and the overall amount charged to the agency for
150 each claim by the pharmacy benefit manager. To the extent necessary, the director shall use
151 aggregated, nonproprietary data only: *Provided*, That the director must provide a clear and
152 concise summary of the total amounts charged to the agency and reimbursed to pharmacy
153 providers on a quarterly basis.
154 (k) If the information required herein is not provided, the agency may terminate the contract
155 with the pharmacy benefit manager and the Office of the Insurance Commissioner shall discipline
156 the pharmacy benefit manager as provided in §33-51-8(e) of this code.

NOTE: The purpose of this bill is to remove the decrease in the amount of group life and accidental death insurance to which an employee is entitled when he or she reaches 65 years of age.

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