

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4931

By Delegate Westfall

[Introduced January 19, 2024; Referred to the
Committee on Banking and Insurance then Health
and Human Resources]

1 A BILL to amend and reenact §33-6-39 of the Code of West Virginia, 1931, as amended, relating to
2 changing insurance carrier requirements for health plans with dental coverage.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. THE INSURANCE POLICY.

**§33-6-39. Prohibitions related to dental insurance plans, agreements, charges, and
reimbursements; definitions.**

1 (a) For purposes of this section:

2 "Covered services" means dental care services for which reimbursement is available/
3 under an enrollee's plan contract, or for which reimbursement would be available but for the
4 application of contractual limitations such as deductibles, copayments, coinsurance, waiting
5 periods, annual or lifetime maximum, frequency limitations, alternative benefit payments, or any
6 other limitation.

7 "Contractual discount" means a percentage reduction from the provider's usual and
8 customary rate for covered dental services and materials required under a participating provider
9 agreement.

10 "Dental plan" includes any policy of insurance which is issued by a health care service
11 contractor which provides for coverage of dental services not in connection with a medical plan.

12 "Materials" includes, but is not limited to, any material or device utilized within the scope of
13 practice by a licensed dentist.

14 (b) No contract of any health care service contractor that covers any dental services, and
15 no contract or participating provider agreement with a dentist may require, directly or indirectly,
16 that a dentist who is a participating provider, provide services to an enrolled participant at a fee set
17 by, or a fee subject to the approval of, the health care services contractor unless the dental
18 services are covered services.

19 (c) A health care service contractor or other person providing third-party administrator
20 services shall not make available any providers in its dental network to a plan that sets dental fees

21 for any services except covered services.

22 (d) A dentist may not charge more for services and materials that are noncovered services
23 under a dental benefits policy than his or her usual and customary fee for those services and
24 materials.

25 (e) Reimbursement paid by a dental plan for covered services and materials shall be
26 reasonable and may not provide nominal reimbursement in order to claim that services and
27 materials are covered services.

28 (f) An "insurer," as that term is defined in §33-1-2 of this code, shall not establish rates for a
29 dental coverage plan that excessive, inadequate, or discriminatory. To ensure compliance with this
30 prohibition, the following shall occur:

31 (1) The Tax Commissioner shall promulgate rules to require rate filings and, as part of the
32 rules, may require the submission of adequate documentation and supporting information,
33 including actuarial opinions or certifications, and set expected benefits ratios. Additionally, the
34 Commissioner will establish rules concerning:

35 (A) Expenditures for clinical dental services;

36 (B) Activities that improve dental care quality; and

37 (C) Overhead and administrative cost expenditures.

38 (2) The carrier shall submit expected rate increases to the commissioner at least sixty days
39 prior to the proposed implementation of the rates. The Tax Commissioner shall then be
40 responsible for approving the rate increase. If no response is given by the Commissioner, the
41 insurer may then implement them subject to later changes by the Commissioner.

42 (3) The Commissioner shall also create mechanisms to measure the "dental loss ratio,"
43 which is defined as "the percentage of dollars collected each year for a dental coverage plan that
44 the dental coverage plan incurs on dental services provided to an enrollee, separate from
45 overhead and administrative costs." After establishment of an accepted measure, carries will be
46 responsible for reporting the "dental loss ratio" beginning July 1, 2024, and every year thereafter.

47 (4) The Tax Commissioner will be responsible for publishing the information gathered on
48 the "dental loss ratio" on his or her agency's website for public consumption. Carriers and plans
49 that fall outside of a set number of standard deviations, determined by the Commissioner, will be
50 highlighted in the data presented.

51 ~~(f)~~ (g) This section applies to dental plans, contracts, and participating provider agreements
52 which take effect or are renewed on or after July 1, ~~2019~~ 2024.

NOTE: The purpose of this bill is to change insurance carrier requirements for health plans with dental coverage.

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