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HB 4847

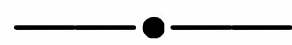
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SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

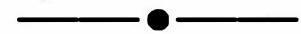
SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4847

(By Delegates Michael, Frederick, Proudfoot,
H. K. White, Browning, Susman, Palumbo,
Hall, Border, Ashley and G. White)



Passed March 11, 2006

In Effect Ninety Days from Passage

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4847

(BY DELEGATES MICHAEL, FREDERICK, PROUDFOOT,
H. K. WHITE, BROWNING, SUSMAN, PALUMBO,
HALL, BORDER, ASHLEY AND G. WHITE)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new article designated §33-16F-1, §33-16F-2, §33-16F-3, §33-16F-4, §33-16F-5, §33-16F-6, §33-16F-7 and §33-16F-8, all relating to group limited health benefits insurance plans; declaring legislative intent; requiring approval of plans by insurance commissioner; providing eligibility requirements for temporary, part time and seasonal employees under such plans; setting forth statutory or regulatory provisions that specifically do or do not apply to such plans; authorizing insurance commissioner to forbear from enforcing certain statutory and regulatory provisions; establishing criteria for filing and approval of premium rates; authorizing insurance commissioner to promulgate emergency rules; mandating disclaimer on policies; exempting plans from premium taxes; providing for severability; and providing rule of construction.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new article designated §33-16F-1, §33-16F-2, §33-16F-3, §33-16F-4, §33-16F-5, §33-16F-6, §33-16F-7 and §33-16F-8, all to read as follows:

ARTICLE 16F. GROUP LIMITED HEALTH BENEFITS PLANS.

§33-16F-1. Declaration of legislative intent.

1 The Legislature recognizes that a significant number of
2 West Virginia workers do not have health insurance coverage
3 and that the lack of coverage is an issue of affordability. One of
4 the ways affordable premiums can be obtained is by some
5 combination of limiting benefits and increasing copays or
6 deductibles. In order to provide greater access to such afford-
7 able plans to employees, the Legislature has determined that
8 authorization of the sale of group policies with limited benefits
9 that would include physician, inpatient and outpatient care,
10 including preventive and primary care, will serve to bring
11 insurance coverage to many of those working West Virginians
12 and their families without any insurance coverage. It is,
13 therefore, the intent of the Legislature to introduce flexibility in
14 the design of group health insurance plans to allow insurers to
15 offer basic benefits at affordable prices. This article may be
16 known as the “Affordable Group Health Insurance Act.”

§33-16F-2. Eligibility for coverage.

1 (a) As used in this article, “group plan” means any plan
2 approved by the commissioner as a “group limited health
3 benefits plan” in accordance with this article. Each such plan
4 constitutes a health benefit plan “of a particular type” for the
5 purposes of subsection (a), section three-1, article sixteen and
6 subsection (d), section seven, article sixteen-d of this chapter.

7 (b) Notwithstanding any other provision of this code,
8 including provisions mandating the inclusion of certain benefits

9 in group health insurance plans, upon filing with and approval
10 by the Commissioner as a “group limited health benefits plan,”
11 any insurer, including a health maintenance organization or
12 health service corporation, may offer the plan and rates associ-
13 ated with the plan to employers, subject to the conditions of this
14 article.

15 (c) The Commissioner shall only approve a proposed
16 “group limited health benefits plan” that is limited to coverage
17 of one or more of the following classes of employees: any class
18 of employees that comprises part-time, temporary or seasonal
19 employees that: (i) Are ineligible for coverage under any of the
20 employer’s group health benefits plans, or (ii) are employed by
21 an employer that does not offer a group health benefits plan to
22 any of its employees.

§33-16F-3. Applicability of other provisions.

1 (a) The following provisions of article sixteen of this
2 chapter apply to group limited health benefits plans: Sections
3 one-a, three, three-j, three-k, three-l, three-m, three-n, three-p,
4 four, five, six, seven, nine, ten, eleven, thirteen, fourteen and
5 fifteen; all other provisions of article sixteen do not apply to
6 plans approved pursuant to this article unless and to the extent
7 such provisions are specifically incorporated in rules promul-
8 gated by the Commissioner.

9 (b) With respect to any “group limited health benefits plan”
10 offered to any “small employer,” as that term is defined in
11 section two, article sixteen-d of this chapter, the following
12 provisions of article sixteen-d apply: Sections two, four, seven,
13 eight, twelve and thirteen: *Provided*, That only the clause
14 preceding the proviso in section thirteen, article sixteen-d of
15 this chapter applies to group plans approved pursuant to this
16 article. Notwithstanding any other provision of this code, all
17 other provisions of article sixteen-d of this chapter do not apply

18 to group plans approved pursuant to this article unless and to
19 the extent such provisions are specifically incorporated in rules
20 promulgated by the Commissioner.

21 (c) Notwithstanding any other provision of this code or of
22 the code of state rules, the provisions of article sixteen-e of this
23 chapter and of legislative rules regulating group accident and
24 sickness policies, including the rule set forth in series 39, title
25 114 of the West Virginia Code of State Rules, do not apply to
26 group plans approved pursuant to this article unless and to the
27 extent specifically incorporated in rules promulgated by the
28 Commissioner.

29 (d) The Commissioner may forbear from applying any
30 other statutory or regulatory requirements to insurers offering
31 a group plan approved pursuant to this article, including any
32 requirements in article twenty-four and twenty-five-a, if the
33 Commissioner determines that such forbearance furthers the
34 legislative intent set forth in section one of this article.

35 (e) Nothing in this article may be construed to relieve an
36 insurer or employer from complying with all applicable federal
37 laws, including federal laws mandating the inclusion of benefits
38 in an insurance plan.

§33-16F-4. Filing and approval of rates.

1 (a) Premium rate charges for any group plans shall:

2 (1) Be reasonable in relation to the benefits available under
3 the policy; and

4 (2) Notwithstanding the provisions of section one, article
5 sixteen-b of this chapter, be filed with the Commissioner for a
6 waiting period of thirty days before the charges become
7 effective. At the expiration of thirty days, the premium rate
8 charges filed are deemed approved unless prior thereto the

9 charges have been affirmatively approved or disapproved by the
10 Commissioner.

11 (b) The Commissioner shall disapprove premium rates that
12 are not in compliance with the requirements of any rule
13 promulgated by the Commissioner. The Commissioner shall
14 send written notice of the disapproval to the insurer. The
15 Commissioner may approve the premium rates before the
16 thirty-day period expires by giving written notice of approval.

17 (c) This section does not apply to group plans issued
18 pursuant to this article upon which premiums are negotiated
19 with the group policyholder and are experience rated.

**§33-16F-5. Emergency rules authorized; factors to be considered
in determining required benefits.**

1 (a) The Commissioner shall promulgate emergency rules
2 pursuant to the provisions of section fifteen, article three,
3 chapter twenty-nine-a of this code on or before the first day of
4 September, two thousand six, to prescribe requirements
5 regarding ratemaking, which may include rules establishing loss
6 ratio standards for group plans; to place further limitations on
7 the eligibility of classes of employees or employees within a
8 group; to determine benefits that must be included in such
9 group plans, except that the Commissioner may not exclude
10 from coverage any benefits mandated by federal law; and to
11 provide for any other matters deemed necessary to further the
12 intent of this article.

13 (b) In determining what medical treatments, procedures,
14 and related health services benefits must be included in such
15 plans, the Commissioner shall consider their effectiveness in
16 improving the health status of individuals, their impact on
17 maintaining and improving health and on reducing the unneces-
18 sary consumption of health care services, and their impact on
19 the affordability of health care coverage.

§33-16F-6. Disclaimer.

1 Each group plan issued pursuant to this article shall include
2 the following disclaimer printed in boldface type and located in
3 a prominent portion of each policy, subscriber contract and
4 certificate of coverage: **“THIS LIMITED GROUP HEALTH
5 BENEFITS PLAN DOES NOT PROVIDE COMPREHEN-
6 SIVE MEDICAL COVERAGE. IT IS A BASIC OR LIM-
7 ITED BENEFITS POLICY AND CONTAINS SPECIFIC
8 DOLLAR LIMITS THAT WILL BE PAID FOR MEDI-
9 CAL SERVICES WHICH MAY NOT BE EXCEEDED. IF
10 THE COST OF SERVICES EXCEEDS THOSE LIMITS,
11 THE BENEFICIARY AND NOT THE INSURER IS
12 RESPONSIBLE FOR PAYMENT OF THE EXCESS
13 AMOUNTS.”**

§33-16F-7. Exemption from premium taxes.

1 Products authorized under this article are exempt from the
2 premium taxes and surcharges assessed under article three of
3 this chapter.

§33-16F-8. Severability; controlling provisions.

1 (a) If any provision of this act or the application thereof to
2 any person or circumstance is for any reason held to be invalid,
3 the remainder of the act and application of such provision to
4 other persons or circumstances shall not be affected thereby.

5 (b) To the extent that provisions of this article differ from
6 those contained elsewhere in this chapter, the provisions of this
7 article control.

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

Handy White
Chairman Senate Committee

W. Ben
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Russell Holmes
Clerk of the Senate

Gregg D. Bay
Clerk of the House of Delegates

Carl Bay Tomlin
President of the Senate

Robert
Speaker of the House of Delegates

The within *is approved* this the *3rd*
day of *April* 2006.

Paul J. Finkbeiner
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time 4:00 pm