

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4146

(BY DELEGATES ELLINGTON, SUMMERS, BATES,
FAIRCLOTH, HOUSEHOLDER, ROHRBACH, SOBONYA AND
STANSBURY, ELDRIDGE, MCCUSKEY AND FRICH)

[Originating in the House Committee on Health and
Human Resources on February 9, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §33-15-4m; to amend said code by adding thereto a new section, designated
3 §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n;
4 to amend said code by adding thereto a new section, designated §33-25-8k; and to amend
5 said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-
6 deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid
7 analgesic drugs; providing direct health care services cover abuse-deterrent opioid
8 analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs;
9 defining terms; providing an effective date; providing for cost sharing; providing for cost
10 tier location; and allowing cost containment measures.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §33-15-4m; that said code be amended by adding thereto a new section,
3 designated §33-16-3y; that said code be amended by adding thereto a new section, designated
4 §33-24-7n; that said code be amended by adding thereto a new section, designated §33-25-8k;
5 and that said code be amended by adding thereto a new section, designated §33-25A-8m, all
6 relating to deductibles, copayments and coinsurance for abuse deterrent opioid analgesic drugs.

CHAPTER 33. INSURANCE

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4m. Deductibles, copayments and coinsurance for abuse deterrent opioid analgesic drugs.

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse

4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost sharing" means any coverage limit, copayment, coinsurance, deductible, or other
7 out of pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any accident and sickness insurance policy issued
14 by an insurer, on or after January 1, 2017, it shall provide coverage for:

15 (1) At least one abuse-deterrent opioid analgesic drug product for each active opioid
16 analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy;

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse deterrent labeling before providing coverage for an
25 abuse deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3) of subsection (b) of this section, an entity subject to
28 this section may undertake utilization review including preauthorization, for an abuse deterrent
29 opioid analgesic drug product covered by the entity, if the same utilization review requirements

30 are applied to nonabuse deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

**§33-16-3y. Deductibles, copayments and coinsurance for abuse deterrent opioid analgesic
drugs.**

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost sharing" means any coverage limit, copayment, coinsurance, deductible, or other
7 out of pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any group accident and sickness insurance policy
14 issued by an insurer pursuant to this article, on or after January 1, 2017, it shall provide coverage
15 for:

16 (1) At least one abuse-deterrent opioid analgesic drug product for each active opioid
17 analgesic ingredient;

18 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
19 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
20 drug coverage;

21 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
22 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
23 prescription drugs covered under the applicable health plan or policy;

24 (4) An entity subject to this section may not require an insured or enrollee to first use an
25 opioid analgesic drug product without abuse deterrent labeling before providing coverage for an
26 abuse deterrent opioid analgesic drug product covered on the entity's formulary for prescription
27 drug coverage.

28 (c) Notwithstanding subdivision (3) of subsection (b) of this section, an entity subject to
29 this section may undertake utilization review including preauthorization, for an abuse deterrent
30 opioid analgesic drug product covered by the entity, if the same utilization review requirements
31 are applied to nonabuse deterrent opioid analgesic drug products and with the same type of drug
32 release, immediate or extended.

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

**§33-24-7n. Deductibles, copayments and coinsurance for abuse deterrent opioid analgesic
drugs.**

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost sharing" means any coverage limit, copayment, coinsurance, deductible, or other
7 out of pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

- 11 (A) Is in immediate release or extended release form; or
12 (B) Contains other drug substances.
13 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
14 which this article applies, on or after January 1, 2017, it shall provide coverage for:
15 (1) At least one abuse-deterrent opioid analgesic drug product for each active opioid
16 analgesic ingredient;
17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;
20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy;
23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse deterrent labeling before providing coverage for an
25 abuse deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.
27 (c) Notwithstanding subdivision (3) of subsection (b) of this section, an entity subject to
28 this section may undertake utilization review including preauthorization, for an abuse deterrent
29 opioid analgesic drug product covered by the entity, if the same utilization review requirements
30 are applied to nonabuse deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8k. Deductibles, copayments and coinsurance for abuse deterrent opioid analgesic drugs.

- 1 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
2 and is indicated by the United States Food and Drug Administration for the treatment of pain,
3 regardless of whether the drug product:

4 (A) Is in immediate release or extended release form; or

5 (B) Contains other drug substances.

6 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
7 which this article applies, on or after January 1, 2017, it shall provide coverage for:

8 (1) At least one abuse-deterrent opioid analgesic drug product for each active opioid
9 analgesic ingredient;

10 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
11 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
12 drug coverage;

13 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
14 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
15 prescription drugs covered under the applicable health plan or policy;

16 (4) An entity subject to this section may not require an insured or enrollee to first use an
17 opioid analgesic drug product without abuse deterrent labeling before providing coverage for an
18 abuse deterrent opioid analgesic drug product covered on the entity's formulary for prescription
19 drug coverage.

20 (c) Notwithstanding subdivision (3) of subsection (b) of this section, an entity subject to
21 this section may undertake utilization review including preauthorization, for an abuse deterrent
22 opioid analgesic drug product covered by the entity, if the same utilization review requirements
23 are applied to nonabuse deterrent opioid analgesic drug products and with the same type of drug
24 release, immediate or extended.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8m. Deductibles, copayments and coinsurance for abuse deterrent opioid
analgesic drug.

1 (a) As used in this section:

2 (1) “Abuse-deterrent opioid analgesic drug product” means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) “Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other
7 out- of- pocket expense requirements;

8 (3) “Opioid analgesic drug product” means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
14 which this article applies, on or after January 1, 2017, it shall provide coverage for:

15 (1) At least one abuse-deterrent opioid analgesic drug product for each active opioid
16 analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity’s formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy;

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse deterrent labeling before providing coverage for an
25 abuse deterrent opioid analgesic drug product covered on the entity’s formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3) of subsection (b) of this section, an entity subject to
28 this section may undertake utilization review including preauthorization, for an abuse deterrent
29 opioid analgesic drug product covered by the entity, if the same utilization review requirements
30 are applied to nonabuse deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

NOTE: The purpose of this bill is to provide insurance coverage for abuse-deterrent opioid analgesic drugs. It provides that direct health care services cover abuse-deterrent opioid analgesic drugs while also providing certain contracts cover abuse-deterrent opioid analgesic drugs. It, additionally define applicable terms while providing an effective date. It further provides for cost sharing while providing for cost tier location and allowing cost containment measures.

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

This bill was recommended for passage during the 2016 Regular Session of the Legislature by the Joint Committee on Health.