WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2807

BY DELEGATES ROHRBACH AND J. PACK

[Introduced March 01, 2021; Referred to the Committee on Health and Human Resources then Finance]
A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-55-11, relating to creating the “Fairness in Cost-Sharing Act;” providing definitions; and requiring manufacturer pharmaceutical rebates to be passed through to the consumer.

Be it enacted by the Legislature of West Virginia:

ARTICLE 55. HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY ACT.

§33-55-11. FAIRNESS IN COST-SHARING ACT.

(a) As used in this section:

(1) “Defined Cost Sharing” means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee’s health plan.

(2) “Insurer” means any health insurance issuer that is subject to state law regulating insurance and offers health insurance coverage, as defined in 42 U.S.C. § 300gg-91.

(3) “Price Protection Rebate” means a negotiated price concession that accrues directly or indirectly to the insurer, or other party on behalf of the insurer, in the event of an increase in the wholesale acquisition cost of a drug above a specified threshold.

(4) “Rebate” means:

(A) Negotiated price concessions including, but not limited to, base price concessions (whether described as a “rebate” or otherwise) and reasonable estimates of any price protection rebates and performance-based price concessions that may accrue directly or indirectly to the insurer during the coverage year from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug, and

(B) Reasonable estimates of any negotiated price concessions, fees and other administrative costs that are passed through, or are reasonably anticipated to be passed through, to the insurer and serve to reduce the insurer’s liabilities for a prescription drug.

(b) An enrollee’s defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to 100% of all rebates received,
or to be received, in connection with the dispensing or administration of the prescription drug.

(c) Nothing in the foregoing subsection shall preclude an insurer from decreasing an enrollee’s defined cost sharing by an amount greater than that required under subsection (b) of this section.

(d) If the commissioner determines that an insurer has not complied with any provision of this article, the commissioner may use any of the commissioner’s enforcement powers to obtain the insurer’s compliance with this article.

NOTE: The purpose of this bill is to require manufacturer pharmaceutical rebates to be passed through to the consumer.

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