

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2429

By Delegate Rohrbach

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §33-62-1, all relating to protecting patient access to physician-administered
 3 medications; and prohibiting certain actions.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 62. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED
 MEDICATIONS.**

§33-62-1. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED MEDICATIONS.

1 (a) The following words shall have the following meanings:

2 "Covered individual" means the same as §33-51-3 of this code.

3 "Physician-administered drug" means any prescription drug, other than a vaccine, that
 4 required administration by a provider and is not approved as a self-administered drug.

5 (b) A health insurance issuer, pharmacy benefit manager, or their agent may not refuse to
 6 authorize, approve, or pay a participating provider for providing covered physician-administered
 7 drugs and related services to covered persons.

8 (c) A health insurance issuer may not condition, deny, restrict, refuse to authorize or
 9 approve, or reduce payment to a participating provider for a physician-administered drug when all
 10 criteria for medical necessity are met, because the participating provider obtains physician-
 11 administered drugs from a pharmacy that is not a participating provider in the health insurance
 12 issuer's network. The drug supplied shall meet the supply chain security controls and chain of
 13 distribution set by the federal Drug Supply Chain Security Act, 29 Pub. L. 113-54, as amended.
 14 The payment shall be at the rate set forth in the health insurance issuer's agreement with the
 15 participating provider applicable to such drugs, or if no such rate is included in the agreement, then
 16 at the wholesale acquisition cost.

17 (d) A health insurance issuer, pharmacy benefit manager, or their agent may not require a
 18 covered person to pay an additional fee, or any other increased cost-sharing amount in addition to

19 applicable cost sharing amounts payable by the covered person as designated within the benefit
20 plan to obtain the physician-administered drug when provided by a participating provider.

21 (e) Nothing in this section may:

22 (1) Prohibit a health insurance issuer or its agent from establishing differing copayments or
23 other cost-sharing amounts within the benefit plan for covered persons who acquire physician-
24 administered drugs from other providers.

25 (2) Prohibit a health insurance issuer or its agent from refusing to authorize or approve, or
26 from denying coverage of a physician-administered drug based upon failure to satisfy medical
27 necessity criteria. The location of receiving the physician-administered drug may not be included
28 in the medical necessity criteria.

29 (3) Prohibit a health insurance issuer from establishing specialty care centers of
30 excellence based on nationally established, objective quality measures, to be utilized by covered
31 persons focused on specific drugs or types of drugs to impact the safety, quality, affordability, and
32 expertise of treatment.

33 (f) The commission of any act prohibited by this section is an unfair method of competition
34 and unfair practice or act which shall subject the violator to all actions, including investigative
35 demands, private actions, remedies, and penalties, provided for in the Unfair Trade Practices and
36 Consumer Protection Law.

37 (g) Any provision of a contract that is contrary to any provision of this section is null, void,
38 and unenforceable in this state.

NOTE: The purpose of this bill is to protect patient access to physician-administered medications and prohibit the practice of "white bagging".

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