

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3487

By Delegates Summers and Tully

[Introduced February 14, 2023; Referred to the
Committee on Health and Human Resources then
Finance]

1 A BILL to amend and reenact §33-15-4t of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §33-16-3ee of said code; to amend and reenact §33-24-7t of said
3 code; to amend and reenact §33-25-8q of said code; and to amend and reenact §33-25A-
4 8t of said code, all relating to cost-sharing calculations for certain Health Savings Account-
5 qualified High Deductible Health Plans.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4t. Fairness in Cost-Sharing Calculation.

1 (a) As used in this section:

2 "Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 "Drug" means the same as the term is defined in §30-5-4(19) of this code.

5 "Person" means a natural person, corporation, mutual company, unincorporated
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
9 code.

10 (b) When calculating an insured's contribution to any applicable cost sharing requirement,
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of
14 the insured by another person; and

15 (2) A pharmacy benefits ~~manger~~manager shall include any cost sharing amounts paid by
16 the insured or on behalf of the insured by another person.

17 (c) The commissioner ~~is authorized to~~ may propose rules for legislative approval in
18 accordance with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(e) If, under federal law, application of subsection (b) of this section would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible under section 223, except for with respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this subsection shall apply regardless of whether the minimum deductible under section 223 has been satisfied.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3ee. Fairness in Cost-Sharing Calculation.

(a) As used in this section:

"Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

"Drug" means the same as the term is defined in §30-5-4(19) of this code.

"Person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

"Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured's contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits ~~manger~~ manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner ~~is authorized to~~ may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(e) If, under federal law, application of subsection (b) of this section would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible under section 223, except for with respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this subsection shall apply regardless of whether the minimum deductible under section 223 has been satisfied.

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

§33-24-7t. Fairness in Cost-Sharing Calculation.

(a) As used in this section:

"Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

"Drug" means the same as the term is defined in §30-5-4(19) of this code.

"Person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

"Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured's contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits ~~manger~~ manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner ~~is authorized to~~ may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(e) If, under federal law, application of subsection (b) of this section would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible under section 223, except for with respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this

29 subsection shall apply regardless of whether the minimum deductible under section 223 has been
30 satisfied.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8q. Fairness in Cost-Sharing Calculation.

1 (a) As used in this section:

2 "Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf
3 of an insured in order to receive a specific health care item or service covered by a health plan.

4 "Drug" means the same as the term is defined in §30-5-4(19) of this code.

5 "Person" means a natural person, corporation, mutual company, unincorporated
6 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit
7 corporation, unincorporated organization, or government or governmental subdivision or agency.

8 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this
9 code.

10 (b) When calculating an insured's contribution to any applicable cost sharing requirement,
11 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c)
12 and 42 U.S.C. § 300gg-6(b):

13 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of
14 the insured by another person; and

15 (2) A pharmacy benefits ~~manger~~ manager shall include any cost sharing amounts paid by
16 the insured or on behalf of the insured by another person.

17 (c) The commissioner ~~is authorized to~~ may propose rules for legislative approval in
18 accordance with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
22 after the effective date of this section.

(e) If, under federal law, application of subsection (b) of this section would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible under section 223, except for with respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this subsection shall apply regardless of whether the minimum deductible under section 223 has been satisfied.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8t. Fairness in Cost-Sharing Calculation.

(a) As used in this section:

"Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

"Drug" means the same as the term is defined in §30-5-4(19) of this code.

"Person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

"Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured's contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits ~~manger~~manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

17 (c) The commissioner ~~is authorized to~~ may propose rules for legislative approval in
18 accordance with §29A-3-1 *et seq.* of this code, to implement the provisions of this section.

19 (d) This section is effective for policy, contract, plans, or agreements beginning on or after
20 January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to
21 this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or
22 after the effective date of this section.

23 (e) If, under federal law, application of subsection (b) of this section would result in Health
24 Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this
25 requirement shall apply for Health Savings Account-qualified High Deductible Health Plans with
26 respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible
27 under section 223, except for with respect to items or services that are preventive care pursuant to
28 section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of this
29 subsection shall apply regardless of whether the minimum deductible under section 223 has been
30 satisfied.

NOTE: The purpose of this bill is to update fairness in cost sharing calculations for certain Health Savings Account-qualified High Deductible Health Plans.

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