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]

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

- (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.
- 4 "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 <u>manger manager</u> 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 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):

Introduced HB 3487

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

- (2) A pharmacy benefits <u>manger manager</u> 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.

4	"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 <u>manger manager</u> 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

after the effective date of this section.

subsection shall	apply regardles	s of whether the mir	nimum deductible ur	nder section 223 has been
satisfied.				
ARTICLE	25.	HEALTH	CARE	CORPORATIONS.
§33-25-8q. Fair	ness in Cost-S	haring Calculation	ı .	
(a) As us	sed in this section	on:		
"Cost sh	aring" means ar	ny copayment, coins	surance, or deductib	le required by or on behalf
of an insured in	order to receive	a specific health ca	are item or service c	overed by a health plan.
"Drug" m	neans the same	as the term is defin	ed in §30-5-4(19) <u>of</u>	this code.
"Person'	' means a na	atural person, cor	poration, mutual c	company, unincorporated
association, par	tnership, joint ve	enture, limited liabilit	y company, trust, es	state, foundation, nonprofit
corporation, uni	ncorporated org	anization, or govern	nment or governmen	ıtal subdivision or agency.
"Pharma	cy benefits mar	nager" means the sa	ame as that term is o	defined in §33-51-3 of this
code.				
(b) When	n calculating an	insured's contribution	on to any applicable	cost sharing requirement,
including, but no	ot limited to, the	annual limitation or	n cost sharing subje	ct to 42 U.S.C. §18022(c)
and 42 U.S.C. §	300gg-6(b):			
(1) An in	surer shall inclu	ıde any cost sharing	g amounts paid by t	he insured or on behalf of
the insured by a	nother person;	and		
(2) A pha	armacy benefits	manger manager s	hall include any cos	t sharing amounts paid by
the insured or o	n behalf of the ir	nsured by another p	erson.	
(c) The	commissioner	is authorized to m	ay propose rules f	or legislative approval in
accordance with	ı §29A-3-1 <i>et se</i>	eq. of this code, to in	nplement the provis	ions of this section.
(d) This	section is effecti	ve for policy, contra	ct, plans, or agreem	ents beginning on or after
January 1, 2020). This section a	applies to all policies	s, contracts, plans,	or agreements, subject to
this article that a	are delivered, ex	ecuted, issued, ame	ended, adjusted, or r	renewed in this state on or
	satisfied. ARTICLE §33-25-8q. Fair (a) As us "Cost sh of an insured in "Drug" m "Person' association, par corporation, unit "Pharma code. (b) When including, but no and 42 U.S.C. § (1) An in the insured by a (2) A pha the insured or o (c) The accordance with (d) This s January 1, 2020	satisfied. ARTICLE 25. §33-25-8q. Fairness in Cost-S (a) As used in this section "Cost sharing" means and of an insured in order to receive "Drug" means the same "Person" means a nate association, partnership, joint vectorporation, unincorporated org "Pharmacy benefits mand code. (b) When calculating and including, but not limited to, the and 42 U.S.C. § 300gg-6(b): (1) An insurer shall included the insured by another person; and (2) A pharmacy benefits the insured or on behalf of the insured or on behalf of the insured accordance with §29A-3-1 et see (d) This section is effection January 1, 2020. This section as	Satisfied. ARTICLE 25. HEALTH §33-25-8q. Fairness in Cost-Sharing Calculation (a) As used in this section: "Cost sharing" means any copayment, coins of an insured in order to receive a specific health ca "Drug" means the same as the term is defin "Person" means a natural person, corrassociation, partnership, joint venture, limited liability corporation, unincorporated organization, or govern "Pharmacy benefits manager" means the seconde. (b) When calculating an insured's contribution including, but not limited to, the annual limitation or and 42 U.S.C. § 300gg-6(b): (1) An insurer shall include any cost sharing the insured by another person; and (2) A pharmacy benefits manger manager is the insured or on behalf of the insured by another person; and (c) The commissioner is authorized to meaccordance with §29A-3-1 et seq. of this code, to in (d) This section is effective for policy, contrast January 1, 2020. This section applies to all policies.	ARTICLE 25. HEALTH CARE §33-25-8q. Fairness in Cost-Sharing Calculation. (a) As used in this section: "Cost sharing" means any copayment, coinsurance, or deductible of an insured in order to receive a specific health care item or service of "Drug" means the same as the term is defined in §30-5-4(19) of "Person" means a natural person, corporation, mutual of association, partnership, joint venture, limited liability company, trust, escorporation, unincorporated organization, or government or government "Pharmacy benefits manager" means the same as that term is decode. (b) When calculating an insured's contribution to any applicable including, but not limited to, the annual limitation on cost sharing subject and 42 U.S.C. § 300gg-6(b): (1) An insurer shall include any cost sharing amounts paid by the state of the same and the same as the same

(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.
<u>odnonod.</u>

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.
- 4 "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 <u>manger manager</u> shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

Introduced HB 3487

- (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.

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.