WEST VIRGINIA LEGISLATURE 2025 REGULAR SESSION

Introduced

Senate Bill 832

By Senator Chapman

[Introduced March 20, 2025; referred to the Committee on Finance]

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A BILL to amend and reenact §33-15-4t, §33-16-3ee, §33-24-7t, §33-25-8q, and §33-25A-8t of the 2 Code of West Virginia, 1931, as amended, relating to cost-sharing calculations; defining 3 terms; requiring insurer to provide credit toward in-network cost sharing; prohibiting insurer from discriminating in the form of payment; and setting effective date.

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 us	sed in this section:			
2	"Average allowed amount" means the average of all contractually agreed upon amounts				reed upon amounts
3	paid by an insurer to a health care provider or other entity participating in the insurer's network.				e insurer's network.
4	The average shall be calculated according to payments within a reasonable amount of time not to				mount of time not to
5	exceed one calendar year. The insurance commissioner may approve methodologies for				
6	calculating the average allowed amount that are based on any of the following: a specific covered				
7	person's insurer	r, all insurer plans offere	ed in the sta	e by a specific insurer, or	a geographic area.
8	"Cost sh	aring" means any copa	yment, coins	surance, or deductible req	uired by or on behalf
9	of an insured in order to receive a specific health care item or service covered by a health plan.				d by a health plan.
10	"Discounted cash price" means the price charged to individuals who pay cash (or cash				o pay cash (or cash
11	equivalent) for a	an individual item or ser	vice or serv	ce package.	
12	"Drug" m	neans the same as the	term is defir	ed in §30-5-4 of this code	9 .
13	"Person'	' means a natural _l	person, cor	poration, mutual compa	ny, unincorporated
14	association, par	tnership, joint venture,	limited liabili	y company, trust, estate, f	oundation, nonprofit
15	corporation, uni	ncorporated organization	on, or govern	nment or governmental su	bdivision or agency.
16	"Pharma	acy benefits manager" r	means the s	ame as that term is define	d in §33-51-3 of this
17	code.				
18	(b) Wher	n calculating an insured	d's contributi	on to any applicable cost s	sharing requirement,
19	including, but no	ot limited to, the annual	limitation or	cost sharing subject to 4	2 U.S.C. § 18022(c)

and 42 U.S.C.	§ 300gg-6(b))
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- (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and
- 23 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the 24 insured or on behalf of the insured by another person;
 - (3) A covered person who elects to receive a covered health care service at a discounted cash price that is below the average allowed amount shall receive credit toward the covered person's in-network cost-sharing as specified in the covered person's insurer's plan, as if the health care service is provided by an in-network health care provider; and
 - (4) An insurer shall not discriminate in the form of payment for any covered in-network health care service solely on the basis that the covered person was referred for the health care by an out-of-network health care provider.
 - (c) The commissioner is authorized to 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. The amendments made to this article during the 2025 regular session of the Legislature are effective on January 1, 2026. 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 Internal Revenue Code, this requirement shall apply only 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 of the Internal Revenue Code: Provided, That with respect to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements of subsection (b) of this section shall apply regardless of whether the minimum deductible under

46 Section 223 of the Internal Revenue Code has been satisfied.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

	§33-16-3ee.	Fairness	in	Cost-Sharing	Calculation.
1	(a) As use	ed in this section:			
2	<u>"Average</u>	allowed amount" mea	ans the avera	ge of all contractually agi	reed upon amounts
3	paid by an insure	r to a health care pro	ovider or othe	r entity participating in the	e insurer's network.
4	The average shal	l be calculated accord	ding to payme	ents within a reasonable ar	mount of time not to
5	exceed one cale	endar year. The ins	surance comi	missioner may approve	methodologies for
6	calculating the av	erage allowed amour	nt that are bas	ed on any of the following	: a specific covered
7	person's insurer,	all insurer plans offer	ed in the state	e by a specific insurer, or a	a geographic area.
8	"Cost sha	ring" means any copa	nyment, coinsi	urance, or deductible requ	ired by or on behalf
9	of an insured in o	rder to receive a spec	cific health ca	re item or service covered	d by a health plan.
10	"Discount	ed cash price" means	s the price ch	narged to individuals who	pay cash (or cash
11	equivalent) for an	individual item or sei	rvice or servic	ce package.	
12	"Drug" me	eans the same as the	term is define	ed in §30-5-4 of this code	
13	"Person"	means a natural	person, corp	oration, mutual compar	ny, unincorporated
14	association, partr	ership, joint venture,	limited liability	/ company, trust, estate, fo	oundation, nonprofit
15	corporation, uninc	corporated organization	on, or govern	ment or governmental sub	odivision or agency.
16	"Pharmac	y benefits manager" ı	means the sa	me as that term is defined	d in §33-51-3 of this
17	code.				
18	(b) When	calculating an insured	d's contributio	n to any applicable cost sl	haring requirement,
19	including, but not	limited to, the annual	l limitation on	cost sharing subject to 42	2 U.S.C. § 18022(c)
20	and 42 U.S.C. § 3	300gg-6(b):			
21	(1) An ins	urer shall include any	cost sharing	amounts paid by the insu	ured or on behalf of
22	the insured by an	other person; and			
23	(2) A pha	rmacy benefits man	ger shall incl	ude any cost sharing an	nounts paid by the

insured or on behalf of the insured by another person;

(3) A covered person who elects to receive a covered health care service at a discounted cash price that is below the average allowed amount shall receive credit toward the covered person's in-network cost-sharing as specified in the covered person's insurer's plan, as if the health care service is provided by an in-network health care provider; and

- (4) An insurer shall not discriminate in the form of payment for any covered in-network health care service solely on the basis that the covered person was referred for the health care by an out-of-network health care provider.
- (c) The commissioner is authorized to 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. The amendments made to this article during the 2025 regular session of the Legislature are effective on January 1, 2026. 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 Internal Revenue Code, this requirement shall apply only 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 of the Internal Revenue Code: *Provided*, That with respect to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements of subsection (b) of this section shall apply regardless of whether the minimum deductible under Section 223 of the Internal Revenue Code 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
1	(a) As us	sed in this section:			
2	<u>"Average</u>	allowed amount" me	eans the aver	age of all contractually ag	greed upon amounts
3	paid by an insur	er to a health care pr	ovider or oth	er entity participating in th	ne insurer's network
4	The average sha	all be calculated accor	rding to paym	ents within a reasonable a	amount of time not to
5	exceed one ca	lendar year. The in	surance com	nmissioner may approve	methodologies for
6	calculating the a	verage allowed amou	ınt that are ba	sed on any of the followin	g: a specific covered
7	person's insurer	, all insurer plans offe	red in the sta	te by a specific insurer, or	a geographic area.
8	"Cost sh	aring" means any cop	ayment, coins	surance, or deductible req	uired by or on behal
9	of an insured in	order to receive a spe	ecific health c	are item or service covere	ed by a health plan.
10	"Discour	ited cash price" mea	ns the price	charged to individuals wh	o pay cash(or cash
11	equivalent) for a	ın individual item or se	ervice or servi	ce package.	
12	"Drug" m	leans the same as the	e term is defir	ed in §30-5-4 of this code	е.
13	"Person"	means a natural	person, cor	poration, mutual compa	any, unincorporated
14	association, part	nership, joint venture	, limited liabili	ty company, trust, estate,	foundation, nonprofi
15	corporation, unit	ncorporated organizat	tion, or govern	nment or governmental su	bdivision or agency
16	"Pharma	cy benefits manager"	means the sa	ame as that term is define	d in §33-51-3 of this
17	code.				
18	(b) Wher	າ calculating an insure	ed's contributi	on to any applicable cost	sharing requirement
19	including, but no	ot limited to, the annua	al limitation or	n cost sharing subject to 4	2 U.S.C. § 18022(c
20	and 42 U.S.C. §	300gg-6(b):			
21	(1) An in	surer shall include an	y cost sharin	g amounts paid by the ins	sured or on behalf o
22	the insured by a	nother person; and			
23	(2) A ph	armacy benefits mar	nger shall ind	clude any cost sharing a	mounts paid by the
24	insured or on be	half of the insured by	another pers	on;	

(3) A covered person who elects to receive a covered health care service at a discounted cash price that is below the average allowed amount shall receive credit toward the covered person's in-network cost-sharing as specified in the covered person's insurer's plan, as if the health care service is provided by an in-network health care provider; and

- (4) An insurer shall not discriminate in the form of payment for any covered in-network health care service solely on the basis that the covered person was referred for the health care by an out-of-network health care provider.
- (c) The commissioner is authorized to 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. The amendments made to this article during the 2025 regular session of the Legislature are effective on January 1, 2026. 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 Internal Revenue Code, this requirement shall apply only 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 of the Internal Revenue Code: *Provided*, That with respect to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements of subsection (b) of this section shall apply regardless of whether the minimum deductible under Section 223 of the Internal Revenue Code has been satisfied.

ARTICLE 25. HEALTH CARE CORPORATIONS.

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

1 (a) As used in this section:

"Average allowed amount" means the average of all contractually agreed upon amounts

paid by an insurer to a health care provider or other entity participating in the insurer's network.
The average shall be calculated according to payments within a reasonable amount of time not to
exceed one calendar year. The insurance commissioner may approve methodologies for
calculating the average allowed amount that are based on any of the following: a specific covered
person's insurer, all insurer plans offered in the state by a specific insurer, or a geographic area.
"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.
"Discounted cash price" means the price charged to individuals who pay cash (or cash
equivalent) for an individual item or service or service package.
"Drug" means the same as the term is defined in §30-5-4 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 shall include any cost sharing amounts paid by the
insured or on behalf of the insured by another person;
(3) A covered person who elects to receive a covered health care service at a discounted
cash price that is below the average allowed amount shall receive credit toward the covered
person's in-network cost-sharing as specified in the covered person's insurer's plan, as if the
health care service is provided by an in-network health care provider; and

(4) An insurer shall not discriminate in the form of payment for any covered in-network health care service solely on the basis that the covered person was referred for the health care by an out-of-network health care provider.

- (c) The commissioner is authorized to 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. The amendments made to this article during the 2025 regular session of the Legislature are effective on January 1, 2026. 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 Internal Revenue Code, this requirement shall apply only 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 of the Internal Revenue Code: *Provided*, That with respect to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements of subsection (b) of this section shall apply regardless of whether the minimum deductible under Section 223 of the Internal Revenue Code has been satisfied.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

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

(a) As used in this section:

"Average allowed amount" means the average of all contractually agreed upon amounts paid by an insurer to a health care provider or other entity participating in the insurer's network.

The average shall be calculated according to payments within a reasonable amount of time not to exceed one calendar year. The insurance commissioner may approve methodologies for calculating the average allowed amount that are based on any of the following: a specific covered

7 person's insurer, all insurer plans offered in the state by a specific insurer, or a geographic area. 8 "Cost sharing" means any copayment, coinsurance, or deductible required by or on behalf 9 of an insured in order to receive a specific health care item or service covered by a health plan. 10 "Discounted cash price" means the price charged to individuals who pay cash (or cash 11 equivalent) for an individual item or service or service package. 12 "Drug" means the same as the term is defined in §30-5-4 of this code. 13 "Person" means a natural person, corporation, mutual company, unincorporated 14 association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit 15 corporation, unincorporated organization, or government or governmental subdivision or agency. 16 "Pharmacy benefits manager" means the same as that term is defined in §33-51-3 of this 17 code. 18 (b) When calculating an insured's contribution to any applicable cost sharing requirement, 19 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. § 18022(c) 20 and 42 U.S.C. § 300gg-6(b): 21 (1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of 22 the insured by another person; and 23 (2) A pharmacy benefits manger shall include any cost sharing amounts paid by the 24 insured or on behalf of the insured by another person; 25 (3) A covered person who elects to receive a covered health care service at a discounted 26 cash price that is below the average allowed amount shall receive credit toward the covered 27 person's in-network cost-sharing as specified in the covered person's insurer's plan, as if the 28 health care service is provided by an in-network health care provider; and 29 (4) An insurer shall not discriminate in the form of payment for any covered in-network 30 health care service solely on the basis that the covered person was referred for the health care by 31 an out-of-network health care provider. 32 (c) The commissioner is authorized to 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. The amendments made to this article during the 2025 regular session of the Legislature are effective on January 1, 2026. 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 Internal Revenue Code, this requirement shall apply only 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 of the Internal Revenue Code: *Provided*, That with respect to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code, the requirements of subsection (b) of this section shall apply regardless of whether the minimum deductible under Section 223 of the Internal Revenue Code has been satisfied.

NOTE: The purpose of this bill is to provide for the administration of cost-sharing calculations, define terms, and setting an effective date.

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