WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5470

FISCAL NOTE

By Delegates Rohrbach and Criss

[Introduced February 12, 2026; referred to the

Committee on Finance]

A BILL to amend and reenact §33-15-4t, §33-16-3ee, §33-24-7t, §33-25-8q , and §33-25A-8t of the Code of West Virginia, 1931, as amended, relating to cost sharing under health plans; requiring pharmacy benefits managers to include any cost sharing amounts paid by insured or by another person when calculating insured's contribution to any applicable cost sharing requirement; applying certain annual limitation on cost sharing to all health plans issued in this state; preventing insurers, pharmacy benefits managers, and third-party administrators from changing the terms of health plan coverage based on the availability or amount of financial assistance available for a prescription drug; defining terms; providing civil penalties and authorizing restitution; and providing 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.

(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 of this code;

"Health care service" means an item or service furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

"Health plan" means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services;

"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.

"Third-party administrator" means the same as that term is defined in § 33-46-2 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 or pharmacy benefits manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

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

(c) The annual limitation on cost sharing provided for under 42 U.S.C. § 18022(c)(1) shall apply to all health care services covered under any health plan offered or issued by an insurer in this state.

(d) An insurer, pharmacy benefits manager, or third-party administrator may not directly or indirectly set, alter, implement, or condition the terms of health plan coverage, including the benefit design, based in part or entirely on information about the availability or amount of financial or product assistance available for a prescription drug.

~~(c)~~ (e) 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)~~ (f) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. The amendments made to this section in 2026 are effective for policy, contracts, plans, or agreements beginning on or after January 1, 2027. 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)~~ (g) 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.

(h) In addition to the penalties and other enforcement provisions of this chapter, any person who violates this section is subject to civil penalties of up to $10,000 per violation. Imposition of civil penalties shall be pursuant to an order of the commissioner issued after notice and hearing. The commissioner's order may require a person found to be in violation of this section to make restitution to persons aggrieved by violations of this section.

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 of this code.;

"Health care service" means an item or service furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.;

"Health plan" means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.;

"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. ; and

"Third-party administrator" means the same as that term is defined in §33-46-2 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 or pharmacy benefits manager 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.

(c) The annual limitation on cost sharing provided for under 42 U.S.C. § 18022(c)(1) shall apply to all health care services covered under any health plan offered or issued by an insurer in this state.

(d) An insurer, pharmacy benefits manager, or third-party administrator may not directly or indirectly set, alter, implement, or condition the terms of health plan coverage, including the benefit design, based in part or entirely on information about the availability or amount of financial or product assistance available for a prescription drug.

~~(c)~~ (e) 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)~~ (f) This section is effective for policy, contract, plans, or agreements beginning on or 33 after January 1, 2020. The amendments made to this section in 2026 are effective for policy, contracts, plans, or agreements beginning on or after January 1, 2027. 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)~~ (g) 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.

(h) In addition to the penalties and other enforcement provisions of this chapter, any person who violates this section is subject to civil penalties of up to $10,000 per violation. Imposition of civil penalties shall be pursuant to an order of the commissioner issued after notice and hearing. The commissioner's order may require a person found to be in violation of this section to make restitution to persons aggrieved by violations of this section.

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 of this code.;

"Health care service" means an item or service furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

"Health plan" means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services;

"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~~.~~:

"Third-party administrator" means the same as that term is defined in §33-46-2 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 or pharmacy benefits manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.; and

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

(c) The annual limitation on cost sharing provided for under 42 U.S.C. § 18022(c)(1) shall apply to all health care services covered under any health plan offered or issued by an insurer in this state.

(d) An insurer, pharmacy benefits manager, or third-party administrator may not directly or indirectly set, alter, implement, or condition the terms of health plan coverage, including the benefit design, based in part or entirely on information about the availability or amount of financial or product assistance available for a prescription drug.

~~(c)~~(e) 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)~~(f) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. The amendments made to this section in 2026 are effective for policy, contracts, plans, or agreements beginning on or after January 1, 2027. 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)~~(g) 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.

(h) In addition to the penalties and other enforcement provisions of this chapter, any person who violates this section is subject to civil penalties of up to $10,000 per violation. Imposition of civil penalties shall be pursuant to an order of the commissioner issued after notice and hearing. The commissioner's order may require a person found to be in violation of this section to make restitution to persons aggrieved by violations of this section.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8q. 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 of this code.:

"Health care service" means an item or service furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

"Health plan" means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services;

"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.: and

"Third-party administrator" means as that term is defined in §33-46-2 of this code.

(b) When calculating an insured's contribution to any applicable cost sharing requirement, 16 including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. § 18022(c) 17 and 42 U.S.C. § 300gg-6(b):

(1) An insurer or pharmacy benefits manager shall include any cost sharing amounts 19 paid by the insured or on behalf of the insured by another person.: and

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

(c) The annual limitation on cost sharing provided for under 42 U.S.C. § 18022(c)(1) shall apply to all health care services covered under any health plan offered or issued by an insurer in this state.

(d) An insurer, pharmacy benefits manager, or third-party administrator may not directly or indirectly set, alter, implement, or condition the terms of health plan coverage, including the benefit design, based in part or entirely on information about the availability or amount of financial or product assistance available for a prescription drug.

~~(c)~~ (e) 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)~~ (f) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. The amendments made to this section in 2026 are effective for policy, contracts, plans, or agreements beginning on or after January 1, 2027. 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)~~ (g) 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.

(h) In addition to the penalties and other enforcement provisions of this chapter, any person who violates this section is subject to civil penalties of up to $10,000 per violation. Imposition of civil penalties shall be pursuant to an order of the commissioner issued after notice and hearing. The commissioner's order may require a person found to be in violation of this section to make restitution to persons aggrieved by violations of this section.

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 of this code.:

"Health care service" means an item or service furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

"Health plan" means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services;

"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.: and

"Third-party administrator" means as that term is defined in §33-46-2 of this code.

(b) When calculating an insured's contribution to any applicable cost sharing requirement, 16 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 or pharmacy benefits manager shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

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

(c) The annual limitation on cost sharing provided for under 42 U.S.C. § 18022(c)(1) shall apply to all health care services covered under any health plan offered or issued by an insurer in this state.

(d) An insurer, pharmacy benefits manager, or third-party administrator may not directly or indirectly set, alter, implement, or condition the terms of health plan coverage, including the benefit design, based in part or entirely on information about the availability or amount of financial or product assistance available for a prescription drug.

~~(c)~~ (e) 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)~~ (f) This section is effective for policy, contract, plans, or agreements beginning on or 32 after January 1, 2020. The amendments made to this section in 2026 are effective for policy, contracts, plans, or agreements beginning on or after January 1, 2027. 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. 36

~~(e)~~ (g) If under federal law application of subsection (b) of this section would result in Health 37 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.

(h) In addition to the penalties and other enforcement provisions of this chapter, any person who violates this section is subject to civil penalties of up to $10,000 per violation. Imposition of civil penalties shall be pursuant to an order of the commissioner issued after notice and hearing. The commissioner's order may require a person found to be in violation of this section to make restitution to persons aggrieved by violations of this section.

NOTE: The purpose of this bill is to bring the tax on healthcare managed care organizations into compliance with new federal regulations

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