

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5527

FISCAL
NOTE

By Delegates Kyle and Hite

[Introduced February 13, 2026; referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §33-64-1, §33-64-2, §33-64-3, §33-64-4, §33-64-5, §33-64-6, and §33-64-7,
 3 relating to the authorization of wellness reimbursement plans that are self-insured medical
 4 plans or wellness integrated medical plan expense reimbursement plans to be licensed in
 5 this state by the Insurance Commissioner and subject to state and federal laws; providing
 6 definitions; and providing that Wellness reimbursement programs do not apply to
 7 individual or group health plans.

Be it enacted by the Legislature of West Virginia:

ARTICLE 64. WELLNESS REIMBURSEMENT PLANS.

§33-64-1. Definitions.

1 A used in this article:

2 "Broker" means an independent health insurance agent licensed in this state.

3 "Commissioner" means the Insurance Commissioner of West Virginia.

4 "Person" means a natural person, corporation, mutual company, unincorporated
 5 association, partnership, joint venture, limited liability company, trust, estate, foundation, not-for-
 6 profit corporation, unincorporated organization, government, or governmental subdivision or
 7 agency.

8 "Wellness reimbursement program" means a self-insured medical reimbursement plan or
 9 a wellness integrated medical plan expense reimbursement plan that:

10 (a) Is created pursuant to 26 C.F.R. 1.105-11 and Sections 105 and 125 of the Internal
 11 Revenue Code;

12 (b) Has issued a contract to provide services and pay claims pertaining to reimbursements
 13 of qualified medical expenses relating to Section 213(d) of the Internal Revenue Code; and

14 (c) Is intended, created, marketed, and sold as an ancillary product to an individual or
 15 group health insurance coverage or self-insured group health plan.

16 "Wellness reimbursement program" does not include any underlying individual or group

17 health insurance coverage or a self-insured group health plan.

18 "Wellness reimbursement program administrator" means any person who manages the
19 operation of a wellness reimbursement program.

§33-64-2. Wellness reimbursement program to be licensed.

1 (a) No wellness reimbursement program administrator may sell, offer, market, promote, or
2 operate a wellness reimbursement program without first being licensed by the commissioner.

3 (b) Application for a license shall be on forms prescribed by the commissioner and shall be
4 accompanied by an initial license fee of \$5,000, annual financial statements or reports for the two
5 preceding calendar years, and any other documents that the commissioner may require to ensure
6 that the wellness reimbursement program administrator meets the requirements for licensure set
7 forth in this article. Thereafter, an application fee for a renewal offering shall be \$500. These fees
8 shall be retained by the commissioner to offset the costs of processing and maintaining the
9 registration of wellness reimbursement programs required by the article.

10 (c) In addition to the documents required under subsection (c) of this section, a wellness
11 reimbursement program administrator shall comply with Federal ERISA requirements, or submit a
12 letter or document from the Internal Revenue Service or the U.S. Department of Labor approving
13 of the specific wellness reimbursement program in question.

14 (d) A wellness reimbursement program administrator shall make and keep a full and
15 correct record of its business and affairs, and the commissioner shall inspect these records at
16 least every three years. The information from these records shall be furnished to the commissioner
17 on demand, and the original books or records shall be open to examination by the commissioner
18 when demanded. The cost of the examination shall be borne by the wellness reimbursement
19 program administrator.

20 (e) A wellness reimbursement program administrator shall file and maintain with the
21 commissioner a surety bond in favor of the state executed by a surety company authorized to
22 transact business in this state. The commissioner may set the requirements of the surety bond as

23 necessary.

24 (f) Before granting any license, the commissioner or his designee shall be satisfied that the
25 wellness reimbursement program administrator is competent, trustworthy, financially responsible,
26 has a good personal and business reputation, has not had an insurance license revoked,
27 suspended, or denied in any jurisdiction within the preceding five years, and has not been
28 convicted of a crime involving fraud, dishonesty, or moral turpitude in any jurisdiction. For
29 purposes of this section, "convicted" includes a plea of guilty or a plea of nolo contendere.

30 (g) The commissioner may revoke or suspend any license issued to a wellness
31 reimbursement program administrator when he finds that any condition exists which would have
32 prohibited issuance of the original license, that the wellness reimbursement program administrator
33 has violated any provision of this article, or that the wellness reimbursement program
34 administrator has deceived or dealt unjustly with the citizens of this state. In lieu of revocation or
35 suspension of license, the commissioner may impose an administrative monetary penalty not to
36 exceed \$1,000 for each offense.

37 (h) Any wellness reimbursement program administrator who fails to obtain a license is
38 guilty of a misdemeanor and, upon conviction, shall be fined not more than \$20,000 or imprisoned
39 for not more than two years, or both, and is subject to revocation of any licenses issued by the
40 commissioner. Any fine revenue received may be retained by the commissioner to offset the
41 expenses of enforcing this article.

§33-64-3. Compliance with federal and state laws.

1 (a) A wellness reimbursement program administrator shall attest to the commissioner and
2 to the employer or employee that the wellness reimbursement program complies with all federal
3 and state laws.

4 (b) A wellness reimbursement program administrator may not cause or knowingly permit
5 the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is
6 untrue, deceptive, or misleading.

7 (c) If the wellness reimbursement program results in a taxable event for either the
 8 employer or the employee associated with the wellness reimbursement program, the wellness
 9 reimbursement program administrator shall defend the employer and its employees against any
 10 and all claims or suits that arise out of or by virtue of the wellness reimbursement program and
 11 shall indemnify the employer and its employees for a loss or judgment incurred by them as a result
 12 of the claim or suit.

§33-64-4. Commissions paid by wellness reimbursement program.

1 (a) A broker is not required to register as a wellness reimbursement program administrator
 2 to acquire commissions paid by such a company.

3 (b) A broker is not an employee of the wellness reimbursement program administrator and
 4 is only necessary to facilitate the partnership of the wellness reimbursement program
 5 administrator and the respective employee group enrolling in the wellness reimbursement
 6 program being that the services of the wellness reimbursement program are not straight-to-market
 7 services.

8 (c) Notwithstanding subsections (a) and (b) of this section, a broker may not cause or
 9 knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal,
 10 or offer that is untrue, deceptive, or misleading.

11 (d) A broker shall exercise good faith and fair dealing to a person when offering, selling,
 12 marketing, or promoting a wellness reimbursement program.

§33-64-5. Enforcement of this article.

1 (a) The commissioner shall enforce this article.

2 (b) A person who violates any part of this article is guilty of a misdemeanor and, upon
 3 conviction thereof, shall be fined not more than \$20,000 or confined in jail not more than two years,
 4 or both fined and confined, for each violation, and is subject to revocation of any license issued by
 5 the commissioner. Any fine revenue received may be retained by the commissioner to offset the
 6 expenses of enforcing this article.

7 (c) The commissioner may promulgate rules and regulations as he or she considers
8 necessary to implement this article.

§33-64-6. Wellness reimbursement programs do not apply to individual or group health plans.

1 Nothing in this article applies to any health or wellness programs or activities offered by an
2 individual or group health coverage or self-insured group health plan to its enrollees.

§33-64-7. Insurance Commissioner to file report with Legislature.

1 Every three years after the effective date of this article, the Insurance Commissioner shall
2 prepare a report to be filed with the Legislature, addressing the implementation of this article, as it
3 relates to the requirements for the programs outlined in this article, and any other information
4 requested by the Legislature to be included within the report.

NOTE: The purpose of this bill is to authorize wellness reimbursement plans that are self-insured medical plans or wellness integrated medical plan expense reimbursement plans to be licensed in this state by the Insurance Commissioner.

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