

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5527

By Delegates Kyle and Hite

[Originating in the Committee on Finance, February

26, 2026]

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; requiring licensure of wellness reimbursement program administrators;
7 providing requirements for licensure; providing for revocation or suspension of licenses,
8 civil penalties and criminal penalties; requiring administrator defense of employers and
9 their employees against any and all claims or suits in certain circumstances; providing
10 duties of brokers; authorizing proposal of legislative rules; providing that provisions do not
11 apply to individual or group health plans; and reporting to the Legislature.

Be it enacted by the Legislature of West Virginia:

ARTICLE 64. WELLNESS REIMBURSEMENT PLANS.

§33-64-1. Definitions.

1 As 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 (1) Is created pursuant to 26 C.F.R. 1.105-11, §26 U.S.C. 105, and §26 U.S.C. 105;

11 (2) Has issued a contract to provide services and pay claims pertaining to reimbursements
12 of qualified medical expenses relating to §26 U.S.C. 213 of the Internal Revenue Code; and

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

"Wellness reimbursement program" does not include any underlying individual or group health insurance coverage or a self-insured group health plan.

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

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

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

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

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

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

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

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

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

37 (h) Any wellness reimbursement program administrator who fails to obtain a license is
38 subject to the penalties under §33-64-5 of this code and is subject to revocation of any licenses
39 issued by the commissioner.

§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.

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

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

§33-64-4. Brokers; commissions.

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

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

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

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

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

(a) The commissioner shall enforce this article.

(b) A person who violates any part of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$20,000 or confined in jail not more than one year.

4 or both fined and confined, for each violation, and is subject to revocation of any license issued by
5 the commissioner.

6 (c) The commissioner may propose for promulgation legislative rules and regulations as he
7 or she considers 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 and file a report 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.