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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



## ENROLLED

*Committee Substitute For*  
SENATE BILL NO. 167

(By Senator BOWMAN, ET AL )



PASSED MARCH 9, 2000  
In Effect NINETY DAYS FROM Passage

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OFFICE OF THE  
CLERK OF THE SENATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 167

(SENATORS BOWMAN, KESSLER, MCKENZIE, EDGELL,  
DITTMAR, DAWSON, MINARD AND PLYMALE, *original sponsors*)

[Passed March 9, 2000; in effect ninety days from passage.]

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five-e, relating to creating the patient's eye care act; providing definitions; limitations on coverage; requiring certain disclosures; and other rights.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-five-e, to read as follows:

**ARTICLE 25E. PATIENTS' EYE CARE ACT.**

**§33-25E-1. Short title**

1 This article may be referred to as the patients' eye care  
2 act.

**§33-25E-2. Definitions.**

1 For the purposes of this article:

2 (a) "Covered person" means an individual enrolled in a  
3 health benefit plan or an eligible dependent of that person.

4 (b) "Eye care provider" means an optometrist or  
5 ophthalmologist licensed by the state of West Virginia.

6 (c) "Eye care benefits" means coverage for the diagno-  
7 sis, treatment and management of eye disease and injury.

8 (d) "Health benefit policy" means any individual or  
9 group plan, policy or contract providing medical, hospital  
10 or surgical coverage issued, delivered, issued for delivery  
11 or renewed in this state by an insurer, after the first day of  
12 January, two thousand one. It does not include credit  
13 accident and sickness, long-term care, medicare supple-  
14 ment, champus supplement, disability or limited benefits  
15 policies.

16 (e) "Insurer" means any health care corporation, health  
17 maintenance organization, accident and sickness insurer,  
18 nonprofit hospital service corporation, nonprofit medical  
19 service corporation or similar entity.

20 (f) "Vision care benefits" means benefits for the refrac-  
21 tion of the eyes and other optical benefits.

**§33-25E-3. Limitations on conditions of coverage.**

1 (a) Health benefits policies may not require that an  
2 optometrist hold hospital staff privileges.

3 (b) When any health benefits policy provides for the  
4 payment of eye care benefits or vision care benefits, such  
5 policy shall be construed to include payment to all eye care  
6 providers who provide benefits within the scope of their  
7 providers' licenses.

8 (c) Any limitation or condition placed upon services,  
9 diagnosis or treatment by or payment to a particular type  
10 of licensed provider shall apply equally to all licensed  
11 providers without unfair discrimination as to the usual  
12 and customary treatment procedures of an eye care  
13 provider.

14 (d) Any health benefits policy that includes eye care  
15 benefits, including a diabetic retinal examination, shall  
16 provide each covered person diagnosed with diabetes  
17 direct access to an eye care provider of their choice from  
18 the insurer's panel of providers independent of, and  
19 without referral from, any other provider or entity for one  
20 annual diabetic retinal examination. The eye care pro-  
21 vider shall provide copies of the results of the examination  
22 to the covered person's primary care physician. No other  
23 services shall be provided to the covered person by the eye  
24 care provider without the prior authorization of the  
25 insurer or of its designee. This benefit shall be subject to  
26 all coinsurance, deductibles, copayments and other policy  
27 requirements. When the diabetic retinal examination  
28 reveals the beginning stages of an abnormal condition,  
29 access to future examinations shall be subject to prior  
30 authorization from a primary care physician.

31 (e) Any health benefits policy that includes eye care  
32 benefits or vision care benefits shall include both optome-  
33 trists and ophthalmologists.

34 (f) This article may not be construed to require any  
35 health benefits policy to cover any specific health care  
36 service.

37 (g) This article may not be construed to require a health  
38 benefit plan or an insurer to include on the insurer's panel  
39 of providers all providers willing to meet the terms and  
40 conditions of participation as a plan provider.

**§33-25E-4. Required disclosure.**

1 Every health benefits policy that is issued, delivered,  
2 issued for redelivery or renewed in this state on or after  
3 the first day of January, two thousand one, that provides  
4 for eye care benefits, including a diabetic retinal examina-  
5 tion, shall disclose in writing, in clear and accurate  
6 language, to enrollees, subscribers, providers and insureds  
7 that any covered person diagnosed with diabetes has the  
8 right to direct access to an eye care provider of their choice  
9 from the insurer's panel of providers for an annual dia-  
10 betic retinal examination.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within *approved* this the *22nd*

Day of *March* 2000

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/00

Time 12:17 pm