WEST VIRGINIA CODE: §33-15-2B

§33-15-2b. Guaranteed issue; limitation of coverage; election; denial of coverage; network plans.

(a) Each insurer that offers accident and sickness insurance coverage in the individual market in this state may not, with respect to an eligible individual desiring to enroll in individual accident and sickness insurance coverage:

(1) Decline to offer coverage to, or deny enrollment of, an eligible individual; or

(2) Impose any preexisting condition exclusion with respect to such coverage.

(b) An insurer may elect to limit the coverage offered under subsection (a) of this section so long as:

(1) The insurer offers at least two different accident and sickness insurance policy forms, both of which are designed for, made generally available to, and actively marketed to, and enroll both eligible and other individuals; and

(2) As elected by the insurer:

(A) The insurer offers the policy forms for individual accident and sickness insurance coverage with the largest, and next to the largest, premium volume of all such policy forms offered by the insurer in this state in the period involved; or

(B) The insurer offers a lower-level coverage policy form and a higher-level coverage policy form each of which includes benefits substantially similar to other individual accident and sickness insurance coverage offered by the insurer in this state and each of which is covered under a risk adjustment, risk spreading, or financial subsidization method. The actuarial value of benefits under a lower-level coverage policy form and a higher-level coverage policy form shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(c) The elections made by the insurer under subsection (b) of this section shall apply uniformly to all eligible individuals in this state for that insurer, and shall be effective for policies offered during a period of at least two years. Policy forms which have different riders or different cost-sharing arrangements shall be considered to be different policy forms.

(d) An insurer may deny accident and sickness coverage in the individual market to an eligible individual if the insurer has demonstrated to the satisfaction of the commissioner that:

(1) It does not have the financial reserves necessary to underwrite additional coverage; and

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(2) Coverage is denied uniformly to all individuals in the individual market in the state without regard to any health status-related factor of the individuals and without regard to whether the individuals are eligible individuals.

(e) An insurer denying insurance coverage pursuant to the provisions of subsection (d) of this section may not offer accident and sickness coverage in the individual market for a period of one hundred eighty days after the date coverage is denied or until the insurer has demonstrated to the satisfaction of the commissioner that it has sufficient financial reserves to underwrite additional coverage, whichever is later.

(f) Insurers offering accident and sickness insurance coverage in the individual market through a network plan may:

(1) Limit the individuals who may be enrolled to those who live, reside or work within the service area for the network plan; and

(2) Deny coverage to those individuals within the service area if the insurer has demonstrated to the satisfaction of the commissioner that:

(A) It will not have the capacity to deliver services adequately to additional individual enrollees because of its obligations to existing group contract holders and enrollees and individual enrollees; and

(B) It is applying this subsection uniformly to individuals without regard to any health status-related factor of the individuals and without regard to whether the individuals are eligible individuals.

(g) An insurer denying accident and sickness insurance coverage through a network plan pursuant to the provisions of subsection (f) of this section may not offer coverage in the individual market within its service area for a period of one hundred eighty days after coverage is denied.

(h) The provisions of this section shall not be construed to require that an insurer offering accident and sickness coverage only in connection with group health plans or through one or more bona fide associations, or both, offer such accident and sickness insurance coverage in the individual market.

(i) An insurer offering accident and sickness insurance coverage in connection with group health plans shall not be deemed to be an insurer offering individual accident and sickness insurance coverage in the individual market solely because such insurer offers a conversion policy.

(j) The requirements of section one-b of this article do not apply to policies issued pursuant to this section. However, premium rate charges for individual accident and sickness policies issued pursuant to this section shall be filed with and approved by the commissioner pursuant to the provisions of article sixteen-b of this chapter.

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(k) This section applies to individual accident and sickness insurance coverage offered, sold, issued, renewed or in effect after June 30, 1997.

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