WEST VIRGINIA CODE: §33-16-3K

§33-16-3k. Limitations on preexisting condition exclusions for health benefit plans.

(a) (1) For plan years beginning after June 30, 1997, a health benefit plan issued in connection with a group health plan may not impose a preexisting condition exclusion with respect to an employee or a dependent of an employee for losses incurred by the employee or dependent more than twelve months (or eighteen months for a late enrollee) after the earlier of the individual's date of enrollment in the health benefit plan or the first day of a waiting period for enrollment in the plan. Genetic information may not be treated as a condition for which a preexisting condition exclusion may be imposed absent a diagnosis of the condition related to the genetic information.

(2) A health benefit plan may impose a preexisting condition exclusion only if such condition relates to a physical or mental condition, regardless of its cause, for which medical advice, diagnosis, care or treatment was recommended or received within the six-month period ending on the enrollee's enrollment date.

(3) A health benefit plan may impose no preexisting condition exclusion relating to pregnancy or in the case of a newborn covered under creditable coverage within thirty days of birth or a child adopted before the age of eighteen and covered under creditable coverage within thirty days of adoption or placement for adoption.

(b) A health maintenance organization that does not impose a preexisting condition exclusion allowed under subsection (a) of this section with respect to any particular coverage option may:

(1) Impose an affiliation period for that coverage option if the affiliation period is applied uniformly without regard to any health status-related factors and does not exceed two months (three months for a late enrollee). For purposes of this article, "affiliation period" means a period that begins on an employee's or dependent's enrollment date, runs concurrently with any waiting period under the group health plan, must expire before coverage is effective and during which the health maintenance organization need not provide medical care and may not charge any premium to the employee or dependent; or

(2) Use other alternatives approved by the commissioner to address adverse selection.

(c) Any preexisting condition exclusion period, including any waiting period or affiliation period prior to the effective date of coverage, shall be reduced by the aggregate of the periods of creditable coverage applicable to the enrollee as of the enrollment date.

WV Legislature