WEST VIRGINIA CODE: §33-16D-12

§33-16D-12. Equality of terms; preexisting conditions; continuous coverage restrictions, eligibility for enrollment.

Health benefit plans and, to the extent permitted by the federal Employee Retirement Income Security Act (ERISA), other benefit arrangements covering small employers shall be subject to the following provisions:

(a) Preexisting conditions provisions may not exclude coverage for a period beyond twelve months following an individual's effective date of coverage and may only relate to conditions which had, during the twelve months immediately preceding the effective date of coverage, manifested themselves in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment or for which medical advice, diagnosis, care or treatment was recommended or received, or as to a pregnancy existing on the effective day of coverage. For plan years beginning after June 30, 1997, in which the plan has, on the first day of the plan year, at least two enrollees who are current employees, a health benefit plan shall meet all requirements set forth in section three-k, article sixteen of this chapter (preexisting condition exclusions).

(b) In determining whether a preexisting condition limitation provision applies to an eligible employee or dependent, all health benefit plans shall credit the time such person was covered under a previous employer-based health benefit plan, a comparable individual health benefit plan, or a self-insured plan if the previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage, exclusive of any applicable waiting period under such plan. For plan years beginning after June 30, 1997, in which the plan has, on the first day of the plan year, at least two enrollees who are current employees, a health benefit plan shall meet all requirements set forth in section three-m, article sixteen of this chapter (creditable coverage).

(c) Subject to subsections (a) and (b) of this section, when a small group employer converts its health benefit plan from one health benefit plan to another health benefit plan or from one carrier to another carrier, all eligible employees who at the time of conversion are covered by the health benefit plan shall be offered health benefits coverage under the subsequent plan, and no employee who at the time of conversion is covered by a health benefit plan offered by said employer may be treated any differently relative to other covered employees under the new health benefit plan than he or she is treated under the current health benefit plan.

(d) For plan years beginning after June 30, 1997, in which the plan has, on the first day of the plan year, at least two enrollees who are current employees, no carrier may condition eligibility or continued eligibility of any employee or dependent on a health status-related factor, and a health benefit plan shall meet all requirements set forth in section three-n, article sixteen of this chapter (eligibility for enrollment).