WEST VIRGINIA CODE: §33-25A-24

§33-25A-24. Scope of provisions; applicability of other laws.

(a) Except as otherwise provided in this article, provisions of the insurance laws and provisions of hospital or medical service corporation laws are not applicable to any health maintenance organization granted a certificate of authority under this article. The provisions of this article shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this state except with respect to its health maintenance corporation activities authorized and regulated pursuant to this article. The provisions of this article may not apply to an entity properly licensed by a reciprocal state to provide health care services to employer groups, where residents of West Virginia are members of an employer group, and the employer group contract is entered into in the reciprocal state. For purposes of this subsection, a "reciprocal state" means a state which physically borders West Virginia and which has subscriber or enrollee hold harmless requirements substantially similar to those set out in section seven-a of this article.

(b) Factually accurate advertising or solicitation regarding the range of services provided, the premiums and copayments charged, the sites of services and hours of operation and any other quantifiable, nonprofessional aspects of its operation by a health maintenance organization granted a certificate of authority or its representative may not be construed to violate any provision of law relating to solicitation or advertising by health professions: Provided, That nothing contained in this subsection shall be construed as authorizing any solicitation or advertising which identifies or refers to any individual provider or makes any qualitative judgment concerning any provider.

(c) Any health maintenance organization authorized under this article may not be considered to be practicing medicine and is exempt from the provisions of chapter thirty of this code relating to the practice of medicine.

(d) The following provisions of this chapter are applicable to any health maintenance organization granted a certificate of authority under this article or which is otherwise subject to the provisions of this article: The provisions of sections four, five, six, seven, eight, nine and nine-a, article two (Insurance Commissioner); sections fifteen and twenty, article four (general provisions); section twenty, article five (borrowing by insurers); section seventeen, article six (validity of noncomplying forms); article six-c (guaranteed loss ratios as applied to individual sickness and accident insurance policies); article seven (assets and liabilities); article eight (investments); article eight-a (use of clearing corporations and federal reserve book-entry system); article nine (administration of deposits); article ten (rehabilitation and liquidation); article twelve (insurance producers and solicitors); section fourteen, article fifteen (policies discriminating among health care providers); section sixteen, article fifteen (policies not to exclude insured's children from coverage; required services; coordination with other insurance); section eighteen, article fifteen (equal

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treatment of state agency); section nineteen, article fifteen (coordination of benefits with Medicaid); article fifteen-b (Uniform Health Care Administration Act); section three, article sixteen (required policy provisions); section three-f, article sixteen (required policy provisions - treatment of temporomandibular joint disorder and craniomandibular disorder); section eleven, article sixteen (group policies not to exclude insured's children from coverage; required services; coordination with other insurance); section thirteen, article sixteen (equal treatment of state agency); section fourteen, article sixteen (coordination of benefits with Medicaid); article sixteen-a (group health insurance conversion); article sixteen-d (marketing and rate practices for small employer accident and sickness insurance policies); article twenty-five-c (Health Maintenance Organization Patient Bill of Rights); article twenty-five-f (coverage for patient cost of clinical trials); article twenty-seven (insurance holding company systems); article thirty-three (annual audited financial report); article thirty-four (administrative supervision); article thirty-four-a (standards and commissioner's authority for companies considered to be in hazardous financial condition); article thirty-five (criminal sanctions for failure to report impairment); article thirty-seven (managing general agents); article thirty-nine (disclosure of material transactions); article forty-a (risk-based capital for health organizations); article forty-one (Insurance Fraud Prevention Act); and article forty-two (Women's Access to Health Care Act). In circumstances where the code provisions made applicable to health maintenance organizations by this subsection refer to the insurer, the corporation or words of similar import, the language shall be construed to include health maintenance organizations.

(e) Any long-term care insurance policy delivered or issued for delivery in this state by a health maintenance organization shall comply with the provisions of article fifteen-a of this chapter.

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