WEST VIRGINIA CODE: §33-25A-8

§33-25A-8. Evidence of coverage; charges for health care services; review of enrollee records; cancellation of contract by enrollee.

(1) (a) Every enrollee is entitled to evidence of coverage in accordance with this section. The health maintenance organization or its designated representative shall issue the evidence of coverage.

(b) No evidence of coverage, or amendment thereto, shall be issued or delivered to any person in this state until a copy of the form of the evidence of coverage, or amendment thereto, has been filed with and approved by the commissioner.

(c) An evidence of coverage shall contain a clear, concise and complete statement of:

(i) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled;

(ii) Any exclusions or limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any copayments;

(iii) Where and in what manner information is available as to how services, including emergency and out-of-area services, may be obtained;

(iv) The total amount of payment and copayment, if any, for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or noncontributory with respect to group certificates;

(v) A description of the health maintenance organization's method for resolving enrollee grievances; and

(vi) The following exact statement in bold print: "Each subscriber or enrollee, by acceptance of the benefits described in this evidence of coverage, shall be deemed to have consented to the examination of his or her medical records for purposes of utilization review, quality assurance and peer review by the health maintenance organization or its designee."

(d) Any subsequent approved change in an evidence of coverage shall be issued to each enrollee.

(e) A copy of the form of the evidence of coverage to be used in this state, and any amendment thereto, is subject to the filing and approval requirements of subdivision (b), subsection (1) of this section, unless the commissioner promulgates a rule dispensing with this requirement or unless it is subject to the jurisdiction of the commissioner under the laws governing health insurance or, hospital or medical service corporations, in which event the

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filing and approval provisions of those laws apply. To the extent, however, that those provisions do not apply the requirements in subdivision (c), subsection (1) of this section, are applicable.

(2) Premiums may be established in accordance with actuarial principles: Provided, That premiums shall not be excessive, inadequate or unfairly discriminatory. A certification by a qualified independent actuary shall accompany a rate filing and shall certify that: The rates are neither inadequate nor excessive nor unfairly discriminatory; that the rates are appropriate for the classes of risks for which they have been computed; provide an adequate description of the rating methodology showing that the methodology follows consistent and equitable actuarial principles; and the rates being charged are actuarially adequate to the end of the period for which rates have been guaranteed. In determining whether the charges are reasonable, the commissioner shall consider whether the health maintenance organization has: (a) Made a vigorous, good faith effort to control rates paid to health care providers; (b) established a premium schedule, including copayments, if any, which encourages enrollees to seek out preventive health care services; (c) made a good faith effort to secure arrangements whereby basic services can be obtained by subscribers from local providers to the extent that the providers offer the services; and (d) made a good faith effort to support community health assessments and efforts directed at community health needs.

(3) Rates are inadequate if the premiums derived from the rating structure, plus investment income, copayments, and revenues from coordination of benefits and subrogation, fees-for-service and reinsurance recoveries are not set at a level at least equal to the anticipated cost of medical and hospital benefits during the period for which the rates are to be effective, and the other expenses which would be incurred if other expenses were at the level for the current or nearest future period during which the health maintenance organization is projected to make a profit. For this analysis, investment income shall not exceed three percent of total projected revenues.

(4) The commissioner shall within a reasonable period approve any form if the requirements of subsection (1) of this section are met and any schedule of charges if the requirements of subsection (2) of this section are met. It is unlawful to issue the form or to use the schedule of charges until approved. If the commissioner disapproves of the filing, he or she shall notify the filer promptly. In the notice, the commissioner shall specify the reasons for his or her disapproval and the findings of fact and conclusions which support his or her reasons. A hearing will be granted by the commissioner within fifteen days after a request in writing, by the person filing, has been received by the commission. If the commissioner does not disapprove any form or schedule of charges within sixty days of the filing of the forms or charges, they shall be considered approved.

(5) The commissioner may require the submission of whatever relevant information in addition to the schedule of charges which he or she considers necessary in determining whether to approve or disapprove a filing made pursuant to this section.

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(6) An individual enrollee may cancel a contract with a health maintenance organization at any time for any reason: Provided, That a health maintenance organization may require that the enrollee give thirty days advance notice: Provided, however, That an individual enrollee whose premium rate was determined pursuant to a group contract may cancel a contract with a health maintenance organization pursuant to the terms of that contract.

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