WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

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ENROLLED

HOUSE BILL No. 4752

(By Delegates L. White and Fargis)

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Passed MARCH 6, 1992

In Effect JULY 1, 1992
AN ACT to amend and reenact sections seven and nine, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section fifteen, article fifteen, chapter thirty-three of said code; and to amend and reenact sections two, three and four, article sixteen-c of said chapter, all relating to accident and sickness insurance policies; requiring that coverage for mammograms, pap smears and prostate cancer checkups be included in the benefits for public employees; requiring basic policy benefits to be approved by the insurance commissioner; adding prostate checkups to the list of benefits which may be included in basic individual and group insurance policies; and requiring a twelve-month period without insurance as a pre-requisite for qualifying for a basic individual or group accident and sickness insurance policy plan.

Be it enacted by the Legislature of West Virginia:

That sections seven and nine, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section fifteen, article fifteen, chapter thirty-three be amended and reenacted; and that sections two, three and four, article sixteen-c of said chapter be amended and reenacted, all to read as follows:
ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan and group life and accidental death insurance plan; rules and regulations for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans for those employees herein made eligible, and to establish and promulgate rules and regulations for the administration of such plans, subject to the limitations contained in this article. Such plans shall include coverages and benefits for X-ray and laboratory services in connection with mammograms and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age fifty and over. Such plans may also include, among other things, medicines, medical equipment, prosthetic appliances, and such other inpatient and outpatient services and expenses deemed appropriate and desirable by the agency.

(b) The agency shall make available to each employee herein made eligible, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance in an amount not to exceed fifty thousand dollars for life insurance and fifty thousand dollars for accidental death insurance as established under the rules and regulations of the agency. In addition, each employee shall be entitled to have his spouse and dependents, as defined by the rules and regulations of the agency, included in such optional coverage, at full cost to the employee, in an amount not to exceed five thousand dollars for life insurance and five thousand dollars for accidental death insurance for the spouse and not to exceed two thousand dollars in life
insurance and two thousand dollars in accidental death
insurance for each eligible dependent; and with full
authorization hereby to the agency to make the same
available and provide such opportunity of purchase to
each employee.

(c) The finance board may cause to be separately rated
for claims experience purposes (1) all employees of the
state of West Virginia, (2) all teaching and professional
employees of the university of West Virginia board of
trustees or the board of directors of the state college
system and county boards of education, (3) all nonteach-
ing employees of the university of West Virginia board
of trustees or the board of directors of the state college
system and county boards of education, or (4) any other
categorization which would ensure the stability of the
overall program.

§5-16-9. Authorization to execute contracts for group
hospital and surgical insurance, group major
medical insurance, group prescription drug
insurance, group life and accidental death
insurance and other accidental death insu-
rance; mandated benefits; limitations; award-
ing of contracts; reinsurance; certificates for
covered employees; discontinuance of
contracts.

(a) The director is hereby given exclusive authoriza-
tion to execute such contract or contracts as are
necessary to carry out the provisions of this article and
to provide the plan or plans of group hospital and
surgical insurance coverage, group major medical
insurance coverage, group prescription drug insurance
coverage and group life and accidental death insurance
coverage selected in accordance with the provisions of
this article, such contract or contracts to be executed
with one or more agencies, corporations, insurance
companies or service organizations licensed to sell group
hospital and surgical insurance, group major medical
insurance, group prescription drug insurance and group
life and accidental death insurance in this state.

(b) The group hospital or surgical insurance coverage
and group major medical insurance coverage herein provided for shall include coverages and benefits for X-ray and laboratory services in connection with mammograms and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age fifty and over. Such benefits shall include, but not be limited to, the following:

(1) Baseline or other recommended mammograms for women ages thirty-five to thirty-nine, inclusive;

(2) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;

(3) A mammogram every year for women age fifty and over;

(4) A pap smear annually or more frequently based on the woman's physician's recommendation for women age eighteen and over;

(5) A checkup for prostate cancer annually for men age fifty or over.

(c) The group life and accidental death insurance herein provided for shall be in the amount of ten thousand dollars for every employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to five thousand dollars upon such employee attaining age sixty-five.

(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

(e) The provisions of article three, chapter five-a of this code, relating to the division of purchases of the department of finance and administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as herein autho-
rized, said director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired. The director shall deal directly with insurers in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for such agent or agents may be paid by the underwriting company or companies: Provided, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award such contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering agency, corporation, insurance company or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage.

(f) The director may authorize the carrier with whom a primary contract is executed to reinsure portions of such contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(g) Each employee who is covered under any such
contract or contracts shall receive a statement of benefits to which such employee, his or her spouse and his or her dependents are entitled thereunder, setting forth such information as to whom such benefits shall be payable, to whom claims shall be submitted, and a summary of the provisions of any such contract or contracts as they affect the employee, his or her spouse and his or her dependents.

(h) The director may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-15. Insurance commissioner to establish minimum benefits and coverages for an individual policy design; basic policy benefits; exemptions; legislative rules; premiums; applicability.

(a) The insurance commissioner shall establish minimum benefits which may be included in any individual accident and sickness insurance policy issued pursuant to this article. The commissioner may accept bids on designs for such minimum plans and shall compile a final basic benefit plan for use by insurers within six months after the effective date of this article.

(b) The basic policy plan established by the insurance commissioner may include coverage for the services of medical physicians or surgeons, podiatrists, physician assistants, osteopathic physicians or surgeons, chiropractors, midwives, advanced nurse practitioners or any other professional health care provider as deemed appropriate by the insurance commissioner.

(c) The following shall serve as a guide to the commissioner in the design of a basic policy issued pursuant to this article:

(1) Inpatient hospital care up to twenty days per year;

(2) Outpatient hospital care including, but not limited
to, surgery and anesthesia, pre-admission testing, radiation therapy and chemotherapy;

(3) Accident or emergency care through emergency room care and emergency admissions to a hospital;

(4) Physician office visits for primary, preventive, well, acute or sick care, up to four visits per year, and laboratory fees, surgery and anesthesia, diagnostic X rays, physician care in a hospital inpatient or outpatient setting;

(5) Prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy, and one office visit per week during the ninth month and until term. Coverage for each such visit shall include necessary appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member. Coverage for each office visit shall also include such prenatal counseling as the physician deems appropriate;

(6) Obstetrical care, including physician's services, delivery room and other medically necessary hospital services; and

(7) X-ray and laboratory services in connection with mammograms or pap smears when performed for cancer screening or diagnostic purposes, at the direction of a physician, including, but not limited to, the following:

(A) Baseline or other recommended mammograms for women age thirty-five to thirty-nine, inclusive;

(B) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;

(C) A mammogram every year for women age fifty and over; or

(D) A pap smear annually or more frequently based
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on the woman's physician's recommendation for women age eighteen or over. A basic policy issued pursuant to this article may apply to mammograms or pap smears the same deductibles or copayments as apply to other covered services.

(8) Medical and laboratory services in connection with annual checkups for prostate cancer in men age fifty and over.

(d) Notwithstanding any other provision of this code to the contrary, any basic policy issued pursuant to this section shall be exempt from all statutorily and regulatorily mandated benefits and coverages except for the minimum benefits and coverages as established by the commissioner pursuant to subsection (a) of this section.

(e) Nothing in this section shall preclude an insurer from offering any other benefit or coverage under a basic policy issued pursuant to this article, for an appropriate additional premium: Provided, That any additional benefit or coverage must first be approved by the insurance commissioner.

(f) A basic policy issued pursuant to this section may include deductibles, copayments and maximum benefits: Provided, That any additional benefit must first be approved by the insurance commissioner.

(g) The insurance commissioner shall promulgate legislative rules pursuant to chapter twenty-nine-a of this code to implement the provisions of this section, including, but not limited to, rules regarding bids, forms and rates.

(h) The premiums paid for insurance provided pursuant to this article shall be exempt from the premium tax required to be paid pursuant to sections fourteen and fourteen-a, article three of this chapter.

(i) A basic policy provided by this section shall be issued only to individuals who have been without health insurance coverage for at least one year prior to application for the same.
ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16C-2. Definitions.

As used in this article:

(a) “Basic policy” means a group accident and sickness insurance contract for medical, surgical or hospital care that is required to contain only those minimum benefits and coverages mandated by this article, but which may contain other benefits and coverages which have been approved by the insurance commissioner.

(b) “Commissioner” means the insurance commissioner of West Virginia.

(c) “Department” means the department of insurance.

(d) “Eligible employee” means an employee who is employed by the employer for an average of at least twenty hours per week; includes individuals who are sole proprietors, general partners and limited partners; and includes individuals who either work or reside in this state.

(e) “Eligible employer” means a corporation, partnership or proprietorship which has done business in this state for at least one year and has not offered health insurance to all of its employees within the twelve months preceding its application for a basic policy as defined by this section.

(f) “Family member” means an eligible employee’s spouse and any dependent child or stepchild under the age of eighteen or under age twenty-three if a full-time student at an accredited school: Provided, That the spouse, child or stepchild is not eligible for medicare, medicaid or state medical assistance.

(g) “Insurer” means any of the following entities that holds a valid certificate of authority from the commissioner: An insurance company authorized to transact accident and sickness insurance; a hospital service corporation, medical service corporation or health service corporation organized pursuant to article twenty-four of this chapter; a health care corporation organized pursuant to article twenty-five of this chapter;
§33-16C-3. Exemption from mandatory benefits and coverages; optional benefits and coverages; deductibles and copayments.

(a) Notwithstanding any other provision of this code to the contrary, any basic policy issued pursuant to this article shall be exempt from all statutorily and regulatorily mandated benefits and coverages except for the minimum benefits and coverages provided for in section four of this article.

(b) Nothing in this article shall preclude an insurer from offering any other benefit or coverage under a basic policy issued pursuant to this article, for an appropriate additional premium: Provided, That any additional benefit or coverage must first be approved by the insurance commissioner.

(c) A basic policy issued pursuant to this article may include deductibles, copayments and maximum benefits: Provided, That any additional benefit must first be approved by the insurance commissioner.

§33-16C-4. Insurance commissioner to establish minimum benefits and coverages; basic policy benefits.

(a) The insurance commissioner shall establish minimum benefits which shall be included in every insurance policy issued pursuant to this article. The commissioner may accept bids on designs for such minimum plans and shall compile a final basic benefit plan for use by insurers within six months after the effective date of this article.

(b) The basic policy plan established by the insurance commissioner may include coverage for the services of medical physicians or surgeons, podiatrists, physician assistants, osteopathic physicians or surgeons, chiropractors, midwives, advanced nurse practitioners, or
any other professional health care provider as deemed appropriate by the insurance commissioner.

(c) The following shall serve as a guide to the commissioner in the design of a basic policy issued pursuant to this article:

(1) Inpatient hospital care up to twenty days per year;

(2) Outpatient hospital care including, but not limited to, surgery and anesthesia, pre-admission testing, radiation therapy and chemotherapy;

(3) Accident or emergency care through emergency room care and emergency admissions to a hospital;

(4) Physician office visits for primary, preventive, well, acute or sick care, up to four visits per year, and laboratory fees, surgery and anesthesia, diagnostic X rays, physician care in a hospital inpatient or outpatient setting;

(5) Prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy, and one office visit per week during the ninth month and until term. Coverage for each such visit shall include necessary appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member. Coverage for each office visit shall also include such prenatal counseling as the physician deems appropriate;

(6) Obstetrical care, including physician's services, delivery room and other medically necessary hospital services; and

(7) X-ray and laboratory services in connection with mammograms or pap smears when performed for cancer screening or diagnostic purposes, at the direction of a physician, including, but not limited to, the following:

(A) Baseline or other recommended mammograms for
women age thirty-five to thirty-nine, inclusive;
(B) Mammograms recommended or required for women age forty to forty-nine, inclusive, every two years or as needed;
(C) A mammogram every year for women age fifty and over; or
(D) A pap smear annually or more frequently based on the woman's physician's recommendation for women age eighteen or over. A basic policy issued pursuant to this article may apply to mammograms or pap smears the same deductibles or copayments as apply to other covered services.
(8) Medical and laboratory services in connection with annual checkups for prostate cancer in men age fifty and over.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect July 1, 1992.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 1st day of April, 1992.

[Signature]
Governor
PRESENTED TO THE

GOVERNOR

Date 3/27/92
Time 3:45 PM