

RECEIVED

1992 APR -1 PM 6:02

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

HOUSE BILL No. 4752

(By Delegates L. White AND FARRIS )

— ● —

Passed MARCH 6, 1992

In Effect July 1, 1992 ~~Passage~~

**ENROLLED**  
**H. B. 4752**

(By DELEGATES L. WHITE AND FARRIS)

[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.**

1 (a) The agency shall establish a group hospital and  
2 surgical insurance plan or plans, a group prescription  
3 drug insurance plan or plans, a group major medical  
4 insurance plan or plans, and a group life and accidental  
5 death insurance plan or plans for those employees herein  
6 made eligible, and to establish and promulgate rules  
7 and regulations for the administration of such plans,  
8 subject to the limitations contained in this article. Such  
9 plans shall include coverages and benefits for X-ray and  
10 laboratory services in connection with mammograms  
11 and pap smears when performed for cancer screening  
12 or diagnostic services and annual checkups for prostate  
13 cancer in men age fifty and over. Such plans may also  
14 include, among other things, medicines, medical equip-  
15 ment, prosthetic appliances, and such other inpatient  
16 and outpatient services and expenses deemed approp-  
17 riate and desirable by the agency.

18 (b) The agency shall make available to each employee  
19 herein made eligible, at full cost to the employee, the  
20 opportunity to purchase optional group life and accid-  
21 ental death insurance in an amount not to exceed fifty  
22 thousand dollars for life insurance and fifty thousand  
23 dollars for accidental death insurance as established  
24 under the rules and regulations of the agency. In  
25 addition, each employee shall be entitled to have his  
26 spouse and dependents, as defined by the rules and  
27 regulations of the agency, included in such optional  
28 coverage, at full cost to the employee, in an amount not  
29 to exceed five thousand dollars for life insurance and  
30 five thousand dollars for accidental death insurance for  
31 the spouse and not to exceed two thousand dollars in life

32 insurance and two thousand dollars in accidental death  
33 insurance for each eligible dependent; and with full  
34 authorization hereby to the agency to make the same  
35 available and provide such opportunity of purchase to  
36 each employee.

37 (c) The finance board may cause to be separately rated  
38 for claims experience purposes (1) all employees of the  
39 state of West Virginia, (2) all teaching and professional  
40 employees of the university of West Virginia board of  
41 trustees or the board of directors of the state college  
42 system and county boards of education, (3) all nonteach-  
43 ing employees of the university of West Virginia board  
44 of trustees or the board of directors of the state college  
45 system and county boards of education, or (4) any other  
46 categorization which would ensure the stability of the  
47 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 insu-  
rance and other accidental death insu-  
rance; mandated benefits; limitations; award-  
ing of contracts; reinsurance; certificates for  
covered employees; discontinuance of  
contracts.**

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

15 (b) The group hospital or surgical insurance coverage

16 and group major medical insurance coverage herein  
17 provided for shall include coverages and benefits for X-  
18 ray and laboratory services in connection with mammo-  
19 grams and pap smears when performed for cancer  
20 screening or diagnostic services and annual checkups  
21 for prostate cancer in men age fifty and over. Such  
22 benefits shall include, but not be limited to, the  
23 following:

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

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

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

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

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

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

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

47 (e) The provisions of article three, chapter five-a of  
48 this code, relating to the division of purchases of the  
49 department of finance and administration, shall not  
50 apply to any contracts for any insurance coverage or  
51 professional services authorized to be executed under  
52 the provisions of this article. Before entering into any  
53 contract for any insurance coverage, as herein autho-

54 rized, said director shall invite competent bids from all  
55 qualified and licensed insurance companies or carriers,  
56 who may wish to offer plans for the insurance coverage  
57 desired. The director shall deal directly with insurers  
58 in presenting specifications and receiving quotations for  
59 bid purposes. No commission or finder's fee, or any  
60 combination thereof, shall be paid to any individual or  
61 agent; but this shall not preclude an underwriting  
62 insurance company or companies, at their own expense,  
63 from appointing a licensed resident agent, within this  
64 state, to service the companies' contracts awarded under  
65 the provisions of this article. Commissions reasonably  
66 related to actual service rendered for such agent or  
67 agents may be paid by the underwriting company or  
68 companies: *Provided*, That in no event shall payment be  
69 made to any agent or agents when no actual services are  
70 rendered or performed. The director shall award such  
71 contract or contracts on a competitive basis. In award-  
72 ing the contract or contracts the director shall take into  
73 account the experience of the offering agency, corpora-  
74 tion, insurance company or service organization in the  
75 group hospital and surgical insurance field, group major  
76 medical insurance field, group prescription drug field  
77 and group life and accidental death insurance field, and  
78 its facilities for the handling of claims. In evaluating  
79 these factors, the director may employ the services of  
80 impartial, professional insurance analysts or actuaries  
81 or both. Any contract executed by the director with a  
82 selected carrier shall be a contract to govern all eligible  
83 employees subject to the provisions of this article.  
84 Nothing contained in this article shall prohibit any  
85 insurance carrier from soliciting employees covered  
86 hereunder to purchase additional hospital and surgical,  
87 major medical or life and accidental death insurance  
88 coverage.

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

94 (g) Each employee who is covered under any such

95 contract or contracts shall receive a statement of  
96 benefits to which such employee, his or her spouse and  
97 his or her dependents are entitled thereunder, setting  
98 forth such information as to whom such benefits shall  
99 be payable, to whom claims shall be submitted, and a  
100 summary of the provisions of any such contract or  
101 contracts as they affect the employee, his or her spouse  
102 and his or her dependents.

103 (h) The director may at the end of any contract period  
104 discontinue any contract or contracts it has executed  
105 with any carrier and replace the same with a contract  
106 or contracts with any other carrier or carriers meeting  
107 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; exemp- tions; legislative rules; premiums; applicability.**

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

8 (b) The basic policy plan established by the insurance  
9 commissioner may include coverage for the services of  
10 medical physicians or surgeons, podiatrists, physician  
11 assistants, osteopathic physicians or surgeons, chiro-  
12 practors, midwives, advanced nurse practitioners or any  
13 other professional health care provider as deemed  
14 appropriate by the insurance commissioner.

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

- 18 (1) Inpatient hospital care up to twenty days per year;  
19 (2) Outpatient hospital care including, but not limited

20 to, surgery and anesthesia, pre-admission testing,  
21 radiation therapy and chemotherapy;

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

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

29 (5) Prenatal care, including a minimum of one  
30 prenatal office visit per month during the first two  
31 trimesters of pregnancy, two office visits per month  
32 during the seventh and eighth months of pregnancy, and  
33 one office visit per week during the ninth month and  
34 until term. Coverage for each such visit shall include  
35 necessary appropriate screening, including history,  
36 physical examination, and such laboratory and diagnos-  
37 tic procedures as may be deemed appropriate by the  
38 physician based upon recognized medical criteria for the  
39 risk group of which the patient is a member. Coverage  
40 for each office visit shall also include such prenatal  
41 counseling as the physician deems appropriate;

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

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

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

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

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

57 (D) A pap smear annually or more frequently based



58 on the woman's physician's recommendation for women  
59 age eighteen or over. A basic policy issued pursuant to  
60 this article may apply to mammograms or pap smears  
61 the same deductibles or copayments as apply to other  
62 covered services.

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

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

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

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

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

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

92 (i) A basic policy provided by this section shall be  
93 issued only to individuals who have been without health  
94 insurance coverage for at least one year prior to  
95 application for the same.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.****§33-16C-2. Definitions.**

1 As used in this article:

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

8 (b) "Commissioner" means the insurance commis-  
9 sioner of West Virginia.

10 (c) "Department" means the department of insurance.

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

17 (e) "Eligible employer" means a corporation, partner-  
18 ship or proprietorship which has done business in this  
19 state for at least one year and has not offered health  
20 insurance to all of its employees within the twelve  
21 months preceding its application for a basic policy as  
22 defined by this section.

23 (f) "Family member" means an eligible employee's  
24 spouse and any dependent child or stepchild under the  
25 age of eighteen or under age twenty-three if a full-time  
26 student at an accredited school: *Provided*, That the  
27 spouse, child or stepchild is not eligible for medicare,  
28 medicaid or state medical assistance.

29 (g) "Insurer" means any of the following entities that  
30 holds a valid certificate of authority from the commis-  
31 sioner: An insurance company authorized to transact  
32 accident and sickness insurance; a hospital service  
33 corporation, medical service corporation or health  
34 service corporation organized pursuant to article  
35 twenty-four of this chapter; a health care corporation  
36 organized pursuant to article twenty-five of this chapter;

37 or a health maintenance organization organized pursu-  
38 ant to article twenty-five-a of this chapter.

39 (h) "Premium" means the consideration for insurance,  
40 by whatever name called.

**§33-16C-3. Exemption from mandatory benefits and coverages; optional benefits and coverages; deductibles and copayments.**

1 (a) Notwithstanding any other provision of this code  
2 to the contrary, any basic policy issued pursuant to this  
3 article shall be exempt from all statutorily and regula-  
4 torily mandated benefits and coverages except for the  
5 minimum benefits and coverages provided for in section  
6 four of this article.

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

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

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

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

8 (b) The basic policy plan established by the insurance  
9 commissioner may include coverage for the services of  
10 medical physicians or surgeons, podiatrists, physician  
11 assistants, osteopathic physicians or surgeons, chiro-  
12 practors, midwives, advanced nurse practitioners, or

13 any other professional health care provider as deemed  
14 appropriate by the insurance commissioner.

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

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

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

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

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

29 (5) Prenatal care, including a minimum of one  
30 prenatal office visit per month during the first two  
31 trimesters of pregnancy, two office visits per month  
32 during the seventh and eighth months of pregnancy, and  
33 one office visit per week during the ninth month and  
34 until term. Coverage for each such visit shall include  
35 necessary appropriate screening, including history,  
36 physical examination, and such laboratory and diagnos-  
37 tic procedures as may be deemed appropriate by the  
38 physician based upon recognized medical criteria for the  
39 risk group of which the patient is a member. Coverage  
40 for each office visit shall also include such prenatal  
41 counseling as the physician deems appropriate;

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

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

50 (A) Baseline or other recommended mammograms for

51 women age thirty-five to thirty-nine, inclusive;

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Samuel Sepp*  
 \_\_\_\_\_  
 Chairman Senate Committee

*Ernest C. Nore*  
 \_\_\_\_\_  
 Chairman House Committee

Originating in the House.

Takes effect July 1, 1992.

*Harrell E. Adams*  
 \_\_\_\_\_  
 Clerk of the Senate

*Donald D. Kopp*  
 \_\_\_\_\_  
 Clerk of the House of Delegates

*Scott Summitt*  
 \_\_\_\_\_  
 President of the Senate

*Robert C. Orr*  
 \_\_\_\_\_  
 Speaker of the House of Delegates

The within *is approved* this the *1st*  
 day of *April* 1992.  
*Yaston Caperton*  
 \_\_\_\_\_  
 Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/92

Time 3:45 pm