WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

---

ENROLLED

Committee Substitute for

SENATE BILL NO. 312

(By Senator Macaughan et al.)

PASSED March 9, 1996
In Effect Ninety Days From Passage
AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fifteen-c; that article sixteen of said chapter be amended by adding thereto a new section, designated section sixteen; to amend and reenact section four, article twenty-four of said chapter; to amend and reenact section six, article twenty-five of said chapter; and to amend and reenact section twenty-four, article twenty-five-a of said chapter, all relating to requiring insurance companies to cover the complete treatment and management of diabetes for their insureds to the same extent that they provide coverage for the complete treatment of other diseases; and relating generally to health maintenance organizations.

Be it enacted by the Legislature of West Virginia:
That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fifteen-c; that article sixteen of said chapter be amended by adding thereto a new section, designated section sixteen; that section four, article twenty-four of said chapter be amended and reenacted; that section six, article twenty-five of said chapter be amended and reenacted; and that section twenty-four, article twenty-five-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 15C. DIABETES INSURANCE.
§33-15C-1. Insurance for diabetics.

(a) Except as provided in section six, article fifteen of this chapter, any policy which provides major medical or similar comprehensive-type medical coverage shall include coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin dependent and noninsulin dependent persons with diabetes and those with gestational diabetes, if medically necessary and prescribed by a licensed physician: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, orthodics and any additional items as promulgated by rule, pursuant to the provisions of chapter twenty-nine-a of this code, by the insurance commissioner, with the advice of the commissioner of the bureau of public health.

(b) All policies affected by the provisions of this section shall also include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet and prescribed by a licensed physician shall be limited to: (1) Visits medically necessary upon the diagnosis of diabetes; (2) visits under circumstances whereby a physician identifies or diagno-
ses a significant change in the patient's symptoms or conditions that necessitates changes in a patient's self-management; and (3) where a new medication or therapeutic process relating to the person's treatment and/or management of diabetes has been identified as medically necessary by a licensed physician: Provided, That coverage for reeducation or refresher education shall be limited to one hundred dollars annually.

(c) The education may be provided by the physician as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies and medications prescribed by a licensed physician, or by a certified diabetes educator certified by a national diabetes educator certification program, or registered dietitian registered by a nationally recognized professional association of dietitians upon the referral of a physician. Provided, That such national diabetes education certification program or nationally recognized professional association of dietitians has been certified to the commissioner of insurance by the commissioner of the bureau of public health.

(d) Any deductible or coinsurance billed for any service as provided in this section shall apply on an equal basis with all other coverages provided by the insurer but not included in this section.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.
§33-16-16. Insurance for diabetics.

(a) Except as provided in section six, article fifteen of this chapter, any policy which provides major medical or similar comprehensive-type medical coverage shall include coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin dependent and noninsulin dependent persons with diabetes and those with gestational diabetes, if medically necessary and prescribed by a licensed physician: Blood glucose monitors, monitor supplies,
Enr. Com. Sub. for S. B. No. 312] 4

insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, orthodics and any additional items as promulgated by rule, pursuant to the provisions of chapter twenty-nine-a of this code, by the insurance commissioner, with the advice of the commissioner of the bureau of public health.

(b) All policies affected by the provisions of this section shall also include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet and prescribed by a licensed physician shall be limited to: (1) Visits medically necessary upon the diagnosis of diabetes; (2) visits under circumstances whereby a physician identifies or diagnoses a significant change in the patient’s symptoms or conditions that necessitates changes in a patient’s self-management; and (3) where a new medication or therapeutic process relating to the person’s treatment and/or management of diabetes has been identified as medically necessary by a licensed physician: Provided, That coverage for reeducation or refresher education shall be limited to one hundred dollars annually.

(c) The education may be provided by the physician as part of an office visit for diabetes diagnosis or treatment, or by a certified diabetes educator certified by a national diabetes educator certification program, or registered dietitian registered by a nationally recognized professional association of dietitians upon the referral of a physician: Provided, That such national diabetes education certification program or nationally recognized professional association of dietitians has been certified to the commissioner of insurance by the commissioner of the bureau of public health.

(d) Any deductible or coinsurance billed for any service as provided in this section shall apply on an equal basis
ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-4. Exemptions; applicability of insurance laws.

Every corporation defined in section two of this article is hereby declared to be a scientific, nonprofit institution and exempt from the payment of all property and other taxes. Every corporation, to the same extent the provisions are applicable to insurers transacting similar kinds of insurance and not inconsistent with the provisions of this article, shall be governed by and be subject to the provisions as hereinbelow indicated, of the following articles of this chapter: Article two (insurance commissioner), except that, under section nine of said article, examinations shall be conducted at least once every four years; article four (general provisions), except that section sixteen of said article shall not be applicable thereto; section thirty-four, article six (fee for form and rate filing); article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eleven (unfair trade practices); article twelve (agents, brokers and solicitors), except that the agent’s license fee shall be five dollars; section fourteen, article fifteen (individual accident and sickness insurance); section sixteen, article fifteen (coverage of children); section eighteen, article fifteen (equal treatment of state agency); section nineteen, article fifteen (coordination of benefits with medicaid); article fifteen-a (long-term care insurance); article fifteen-c (diabetes insurance); section three, article sixteen (required policy provisions); section three-a, article sixteen (mental illness); section three-c, article sixteen (group accident and sickness insurance); section three-d, article sixteen (medicare supplement insurance); section three-f, article sixteen (treatment of temporomandibular joint disorder and craniomandibular disorder); section eleven, article sixteen (coverage of children); section thirteen, article sixteen (equal treatment
of state agency); section fourteen, article sixteen (coordi-
nation of benefits with medicaid); section sixteen,
article sixteen (diabetes insurance); article sixteen-a
(group health insurance conversion); article sixteen-c
(small employer group policies); article sixteen-d (mar-
keting and rate practices for small employers); article
twenty-six-a (West Virginia life and health insurance
guaranty association act), after the first day of October.
one thousand nine hundred ninety-one; article twenty-
seven (insurance holding company systems); article
twenty-eight (individual accident and sickness insurance
minimum standards); article thirty-three (annual audited
financial report); article thirty-four (administrative
supervision); article thirty-four-a (standards and com-
missioner's authority for companies deemed to be in
hazardous financial condition); article thirty-five
(criminal sanctions for failure to report impairment); and
article thirty-seven (managing general agents); and no
other provision of this chapter may apply to these
 corporations unless specifically made applicable by the
provisions of this article. If, however, the corporation is
converted into a corporation organized for a pecuniary
profit or if it transacts business without having obtained
a license as required by section five of this article, it
shall thereupon forfeit its right to these exemptions.

ARTICLE 25. HEALTH CARE CORPORATIONS.
§33-25-6. Supervision and regulation by insurance commis-
sioner; exemption from insurance laws.

Corporations organized under this article are subject
to supervision and regulation of the insurance commis-
sioner. The corporations organized under this article, to
the same extent these provisions are applicable to
insurers transacting similar kinds of insurance and not
inconsistent with the provisions of this article, shall be
governed by and be subject to the provisions as herein-
below indicated of the following articles of this chapter:
Article four (general provisions), except that section
sixteen of said article shall not be applicable thereto;
article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eight (investments); article ten (rehabilitation and liquidation); section fourteen, article fifteen (individual accident and sickness insurance); section sixteen, article fifteen (coverage of children); section eighteen, article fifteen (equal treatment of state agency); section nineteen, article fifteen (coordination of benefits with medicaid); article fifteen-c, (diabetes insurance); section three, article sixteen (required policy provisions); section eleven, article sixteen (coverage of children); section thirteen, article sixteen (equal treatment of state agency); section fourteen, article sixteen (coordination of benefits with medicaid); section sixteen, article sixteen, (diabetes insurance); article sixteen-a (group health insurance conversion); article sixteen-c (small employer group policies); article sixteen-d (marketing and rate practices for small employers); article twenty-six-a (West Virginia life and health insurance guaranty association act); article twenty-seven (insurance holding company systems); article thirty-three (annual audited financial report); article thirty-four-a (standards and commissioner's authority for companies deemed to be in hazardous financial condition); article thirty-five (criminal sanctions for failure to report impairment); and article thirty-seven (managing general agents); and no other provision of this chapter may apply to these corporations unless specifically made applicable by the provisions of this article.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.


(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 autho-
rized and regulated pursuant to this article. The provi-
sions of this article shall 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 enrolled 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 organi-
ization granted a certificate of authority, or its represen-
tative shall 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 solicita-
tion 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 shall not be considered to be practicing
medicine and is exempt from the provision of chapter
thirty of this code, relating to the practice of medicine.

(d) The provisions of section fifteen, article four
(general provisions); section seventeen, article six
(noncomplying forms); article six-c (guaranteed loss
ratio); article seven (assets and liabilities); article eight
(investments); article nine (administration of deposits);
article twelve (agents, brokers, solicitors and excess
line); section fourteen, article fifteen (individual accident
and sickness insurance); section sixteen, article fifteen
(coverage of children); section eighteen, article fifteen
(equal treatment of state agency); section nineteen,
article fifteen (coordination of benefits with medicaid);
article fifteen-b (uniform health care administration
act); article fifteen-c, (diabetes insurance); section three,
article sixteen (required policy provisions); section
three-f, article sixteen (treatment of temporomandibular
disorder and craniomandibular disorder); section eleven,
article sixteen (coverage of children); section thirteen,
article sixteen (equal treatment of state agency); section
fourteen, article sixteen (coordination of benefits with
medicaid); section sixteen, article sixteen, (diabetes
insurance); article sixteen-a (group health insurance
conversion); article sixteen-c (small employer group
policies); article sixteen-d (marketing and rate practices
for small employers); article twenty-seven (insurance
holding company systems); article thirty-four-a (stand-
ards and commissioner’s authority for companies
deemed to be in hazardous financial condition); article
thirty-five (criminal sanctions for failure to report
impairment); article thirty-seven (managing general
agents); and article thirty-nine (disclosure of material
transactions) shall be applicable to any health mainte-
nance organization granted a certificate of authority
under this article. In circumstances where the code
provisions made applicable to health maintenance
organizations by this section refer to the “insurer”, the
“corporation” or words of similar import, the language
shall be construed to include health maintenance organi-
zations.

(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.

(f) A health maintenance organization granted a
certificate of authority under this article shall be exempt
from paying municipal business and occupation taxes on
gross income it receives from its enrollees, or from their
employers or others on their behalf, for health care items
or services provided directly or indirectly by the health
maintenance organization. This exemption applies to all
taxable years through the thirty-first day of December,
one thousand nine hundred ninety-six. The commis-
sioner and the tax department shall conduct a study of
the appropriateness of imposition of the municipal
business and occupation tax or other tax on health
maintenance organizations, and shall report to the
regular session of the Legislature, one thousand nine
hundred ninety-seven, on their findings, conclusions and
recommendations, together with drafts of any legislation
necessary to effectuate their recommendations.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of .............., 1996.

Governor