WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4800
(By Delegates Michael, Leach, Doyle, Kelley, Facemyer and Border)

Passed March 11, 2000
In Effect from Passage
AN ACT to amend article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-a; and to amend and reenact section twenty-five of said article, all relating generally to the public employees insurance agency; establishing a new prescription drug program within the public employees insurance agency; requiring the executive director to appoint an advisory committee; setting forth guidelines for the new program; authorizing contract amendments; requiring reporting; and changing reserve fund to require specific percentages.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven-a; and that section twenty-five of said article be amended and reenacted, all to read as follows:
ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7a. Prescription benefit program.

(a) Findings—The Legislature finds that the rapidly rising cost of prescription drugs places an undue financial burden on the state of West Virginia, the payors, and the consumers of prescription drugs. The Legislature further finds that those rising costs are related to the following factors:

(1) National pharmaceutical trends reflecting that prescription spending has doubled in the past eight years from forty-nine billion dollars per year to an estimated one hundred nineteen billion dollars in the year two thousand. This trend reflects successes in drug therapy research, drug effectiveness, and an overall improvement in the quality of life. However, the trend also signals an increase in drug cost and utilization, which impacts all West Virginians directly or indirectly;

(2) The aging of our state population and increased life expectancy of our citizens have a significant impact on the rising cost and utilization of prescription drugs in West Virginia. When these factors are combined with the escalating number of drug-related preventative treatments, increased product development, and growing consumerism in the prescription drug market, many West Virginians are forced to utilize an increasing portion of their income to maintain their physical and mental health;

(3) Four decades ago, more than ninety percent of drug costs were paid by consumers. Now, more than half the cost of prescription drugs are supplemented by governmental and private health insurance, thus removing usual market forces that serve to control costs. This poses a substantial burden on the taxpayers of West Virginia to support the state’s health benefit programs, as well as their own; and

(4) Despite the data reflecting a substantial percentage decrease in physician and hospital expenses, the number of
drugs reaching the billion dollar sales mark has doubled since 1994, which contributes to the overall increase in health care expenditures in the United States.

(b) Advisory committee—The executive director of the public employees insurance agency shall appoint an advisory committee of six persons to assist in the development of a rational and equitable prescription benefit program. The advisory committee is to be composed of physicians representing specialists and primary care practices, pharmacists, including clinical pharmacists and a representative of the vendor for the prescription benefit program. The executive director shall serve as the chairperson. The advisory committee shall meet routinely, upon the call of the chairperson. The advisory committee may form any number of ad hoc committees, representing expertise in the particular area of study for that ad hoc committee, to assist with the development and implementation of the prescription benefit program authorized by this section.

(c) Program design—The advisory committee shall design a prescription drug strategy statement to guide all decisions made by the advisory committee. The strategy statement shall reflect consideration of the goals of a prescription benefit program, the needs of the various populations served and the overall value to the state of these expenditures. In developing the prescription benefit program, the committee shall focus on specific disease states or conditions, the appropriate pharmaceutical management or treatment of those disease states or conditions, and prioritize that information for purposes of establishing the appropriate level of third party coverage, giving consideration to the appropriate priority given to coverage for life-saving, life enhancing, life lengthening, life style and cosmetic drugs. In determining the levels of third party coverage, the advisory committee may continue to separate generic prescription drugs from the brand name prescription drugs.
(d) **Development and Revisions**—The advisory committee shall develop and submit the prescription benefit program to the agency no later than the first day of July, two thousand one. The advisory committee shall continuously evaluate the prescription benefit program and make necessary revisions to maintain conformity with the goals of the prescription benefit program, which are to be (1) responsive to the needs of the employees insured by the program, and (2) fiscally accountable to the taxpayers of the state of West Virginia.

(e) **Contracts**—After receiving and reviewing the prescription benefit program, the executive director may amend any existing prescription benefit program contract, or enter into a separate contract, to establish the prescription benefit program authorized in this section: Provided, That for a new contract, the provisions of section nine of this article apply.

§5-16-25. **Reserve fund.**

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year. Beginning with the fiscal year two thousand two plan and for each succeeding fiscal year plan, the finance board shall transfer ten percent of the projected total plan costs for that year into the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the governor and Legislature in accordance with the provisions of this article. Any moneys saved in a plan year shall be transferred into the reserve fund. At the close of any fiscal year in which the balance in the reserve fund exceeds the recommended reserve amount by fifteen percent, the executive director shall transfer that amount to the fund established in section fourteen-a, article two, chapter five-a of this code for appropriation by the Legislature.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 3rd day of ______________, 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/29/10
Time 3:30 pm