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2001 MAY -2 P 6: 29

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

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**ENROLLED**

## House Bill No. 3253

(By Delegates Leach, Frederick, Keener,  
R. M. Thompson, Fletcher, Ashley and Hall)

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Passed April 13, 2001

In Effect from Passage

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**H. B. 3253**

(BY DELEGATES LEACH, FREDERICK, KEENER,  
R. M. THOMPSON, FLETCHER, ASHLEY AND HALL)

[Passed April 13, 2001; in effect from passage.]

AN ACT to amend and reenact section two, article twenty five-a, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance; health maintenance organization act; definitions; and redefining copayment to include percentage payments made by a subscriber.

*Be it enacted by the Legislature of West Virginia:*

That section two, article twenty five-a, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**§33-25A-2. Definitions.**

- 1 (1) "Basic health care services" means physician, hospital,
- 2 out-of-area, podiatric, chiropractic, laboratory, X ray, emer-
- 3 gency, short-term mental health services not exceeding twenty
- 4 outpatient visits in any twelve-month period, and cost-effective
- 5 preventive services including immunizations, well-child care,

6 periodic health evaluations for adults, voluntary family plan-  
7 ning services, infertility services, and children's eye and ear  
8 examinations conducted to determine the need for vision and  
9 hearing corrections, which services need not necessarily include  
10 all procedures or services offered by a service provider.

11 (2) "Capitation" means the fixed amount paid by a health  
12 maintenance organization to a health care provider under  
13 contract with the health maintenance organization in exchange  
14 for the rendering of health care services.

15 (3) "Commissioner" means the commissioner of insurance.

16 (4) "Consumer" means any person who is not a provider of  
17 care or an employee, officer, director or stockholder of any  
18 provider of care.

19 (5) "Copayment" means a specific dollar amount or  
20 percentage, except as otherwise provided for by statute, that the  
21 subscriber must pay upon receipt of covered health care  
22 services and which is set at an amount or percentage consistent  
23 with allowing subscriber access to health care services.

24 (6) "Employee" means a person in some official employ-  
25 ment or position working for a salary or wage continuously for  
26 no less than one calendar quarter and who is in such a relation  
27 to another person that the latter may control the work of the  
28 former and direct the manner in which the work shall be done.

29 (7) "Employer" means any individual, corporation, partner-  
30 ship, other private association, or state or local government that  
31 employs the equivalent of at least two full-time employees  
32 during any four consecutive calendar quarters.

33 (8) "Enrollee", "subscriber" or "member" means an  
34 individual who has been voluntarily enrolled in a health  
35 maintenance organization, including individuals on whose

36 behalf a contractual arrangement has been entered into with a  
37 health maintenance organization to receive health care services.

38 (9) "Evidence of coverage" means any certificate, agree-  
39 ment or contract issued to an enrollee setting out the coverage  
40 and other rights to which the enrollee is entitled.

41 (10) "Health care services" means any services or goods  
42 included in the furnishing to any individual of medical, mental  
43 or dental care, or hospitalization or incident to the furnishing of  
44 the care or hospitalization, osteopathic services, chiropractic  
45 services, podiatric services, home health, health education or  
46 rehabilitation, as well as the furnishing to any person of any and  
47 all other services or goods for the purpose of preventing,  
48 alleviating, curing or healing human illness or injury.

49 (11) "Health maintenance organization" or "HMO" means  
50 a public or private organization which provides, or otherwise  
51 makes available to enrollees, health care services, including at  
52 a minimum basic health care services, and which:

53 (a) Receives premiums for the provision of basic health  
54 care services to enrollees on a prepaid per capita or prepaid  
55 aggregate fixed sum basis, excluding copayments;

56 (b) Provides physicians' services primarily: (i) Directly  
57 through physicians who are either employees or partners of the  
58 organization; or (ii) through arrangements with individual  
59 physicians or one or more groups of physicians organized on a  
60 group practice or individual practice arrangement; or (iii)  
61 through some combination of paragraphs (i) and (ii) of this  
62 subdivision;

63 (c) Assures the availability, accessibility and quality,  
64 including effective utilization, of the health care services which  
65 it provides or makes available through clearly identifiable focal  
66 points of legal and administrative responsibility; and

67 (d) Offers services through an organized delivery system in  
68 which a primary care physician is designated for each sub-  
69 scriber upon enrollment. The primary care physician is respon-  
70 sible for coordinating the health care of the subscriber and is  
71 responsible for referring the subscriber to other providers when  
72 necessary: *Provided*, That when dental care is provided by the  
73 health maintenance organization the dentist selected by the  
74 subscriber from the list provided by the health maintenance  
75 organization shall coordinate the covered dental care of the  
76 subscriber, as approved by the primary care physician or the  
77 health maintenance organization.

78 (12) "Impaired" means a financial situation in which, based  
79 upon the financial information which would be required by this  
80 chapter for the preparation of the health maintenance organiza-  
81 tion's annual statement, the assets of the health maintenance  
82 organization are less than the sum of all of its liabilities and  
83 required reserves including any minimum capital and surplus  
84 required of the health maintenance organization by this chapter  
85 so as to maintain its authority to transact the kinds of business  
86 or insurance it is authorized to transact.

87 (13) "Individual practice arrangement" means any agree-  
88 ment or arrangement to provide medical services on behalf of  
89 a health maintenance organization among or between physi-  
90 cians or between a health maintenance organization and  
91 individual physicians or groups of physicians, where the  
92 physicians are not employees or partners of the health mainte-  
93 nance organization and are not members of or affiliated with a  
94 medical group.

95 (14) "Insolvent" or "insolvency" means a financial situation  
96 in which, based upon the financial information that would be  
97 required by this chapter for the preparation of the health  
98 maintenance organization's annual statement, the assets of the  
99 health maintenance organization are less than the sum of all of  
100 its liabilities and required reserves.

101 (15) "Medical group" or "group practice" means a profes-  
102 sional corporation, partnership, association or other organiza-  
103 tion composed solely of health professionals licensed to  
104 practice medicine or osteopathy and of other licensed health  
105 professionals, including podiatrists, dentists and optometrists,  
106 as are necessary for the provision of health services for which  
107 the group is responsible: (a) A majority of the members of  
108 which are licensed to practice medicine or osteopathy; (b) who  
109 as their principal professional activity engage in the coordinated  
110 practice of their profession; (c) who pool their income for  
111 practice as members of the group and distribute it among  
112 themselves according to a prearranged salary, drawing account  
113 or other plan; and (d) who share medical and other records and  
114 substantial portions of major equipment and professional,  
115 technical and administrative staff.

116 (16) "Premium" means a prepaid per capita or prepaid  
117 aggregate fixed sum unrelated to the actual or potential utiliza-  
118 tion of services of any particular person which is charged by the  
119 health maintenance organization for health services provided to  
120 an enrollee.

121 (17) "Primary care physician" means the general practitio-  
122 ner, family practitioner, obstetrician/gynecologist, pediatrician  
123 or specialist in general internal medicine who is chosen or  
124 designated for each subscriber who will be responsible for  
125 coordinating the health care of the subscriber, including  
126 necessary referrals to other providers: *Provided*, That a certified  
127 nurse-midwife may be chosen or designated in lieu of as a  
128 subscriber's primary care physician during the subscriber's  
129 pregnancy and for a period extending through the end of the  
130 month in which the sixty-day period following termination of  
131 pregnancy ends: *Provided, however*, That nothing in this  
132 subsection shall expand the scope of practice for certified  
133 nurse-midwives as defined in article fifteen, chapter thirty of  
134 this code.

135 (18) "Provider" means any physician, hospital or other  
136 person or organization which is licensed or otherwise autho-  
137 rized in this state to furnish health care services.

138 (19) "Uncovered expenses" means the cost of health care  
139 services that are covered by a health maintenance organization,  
140 for which a subscriber would also be liable in the event of the  
141 insolvency of the organization.

142 (20) "Service area" means the county or counties approved  
143 by the commissioner within which the health maintenance  
144 organization may provide or arrange for health care services to  
145 be available to its subscribers.

146 (21) "Statutory surplus" means the minimum amount of  
147 unencumbered surplus which a corporation must maintain  
148 pursuant to the requirements of this article.

149 (22) "Surplus" means the amount by which a corporation's  
150 assets exceeds its liabilities and required reserves based upon  
151 the financial information which would be required by this  
152 chapter for the preparation of the corporation's annual state-  
153 ment except that assets pledged to secure debts not reflected on  
154 the books of the health maintenance organization shall not be  
155 included in surplus.

156 (23) "Surplus notes" means debt which has been subordi-  
157 nated to all claims of subscribers and general creditors of the  
158 organization.

159 (24) "Qualified independent actuary" means an actuary who  
160 is a member of the American academy of actuaries or the  
161 society of actuaries and has experience in establishing rates for  
162 health maintenance organizations and who has no financial or  
163 employment interest in the health maintenance organization.

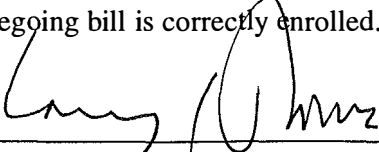
164 (25) "Quality assurance" means an ongoing program  
165 designed to objectively and systematically monitor and evaluate  
166 the quality and appropriateness of the enrollee's care, pursue

167 opportunities to improve the enrollee's care and to resolve  
168 identified problems at the prevailing professional standard of  
169 care.

170 (26) "Utilization management" means a system for the  
171 evaluation of the necessity, appropriateness and efficiency of  
172 the use of health care services, procedures and facilities."



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



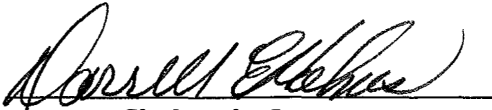
Chairman Senate Committee



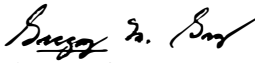
Chairman House Committee

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 is approved this the 1<sup>st</sup>  
day of May, 2001.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/01

Time 8:40pm