WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 2493

(By Delegate(s) McCuskey, Westfall, Ashley, Bates, Ellington, Frich, Householder, Perdue, Sobonya, Walters and Rohrbach)

Passed March 12, 2015

In effect ninety days from passage.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating to anti-cancer medications; providing accident and sickness insurance cover anti-cancer medications; providing direct health care services that cover anti-cancer medications; prohibiting certain copayments, deductibles or coinsurance for orally administered anti-cancer
medications; prohibiting certain acts to comply with the requirements; defining terms; providing an effective date; and allowing cost containment measures.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-15-4l; that said code be amended by adding thereto a new section, designated §33-16-3x; that said code be amended by adding thereto a new section, designated §33-24-7m; that said code be amended by adding thereto a new section, designated §33-25-8j; and that said code be amended by adding thereto a new section, designated §33-25A-8l, all to read as follows:

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4l. Deductibles, copayments and coinsurance for anti-cancer medications.

(a) Any accident and sickness insurance policy issued by an insurer pursuant to this article that covers anti-cancer medications that are injected or intravenously administered by a health care provider and patient administered anti-cancer medications, including, but not limited to, those medications orally administered or self-injected, may not require a less favorable basis for a copayment, deductible or coinsurance amount for patient administered anti-cancer medications than it requires for injected or intravenously administered anti-cancer medications, regardless of the formulation or benefit category determination by the policy or plan.

(b) An accident or sickness insurance policy may not comply with subsection (a) of this section by:

(1) Increasing the copayment, deductible or coinsurance amount required for injected or intravenously administered
anti-cancer medications that are covered under the policy or plan; or

(2) Reclassifying benefits with respect to anti-cancer medications.

(c) As used in this section, “anti-cancer medication” means a FDA approved medication prescribed by a treating physician who determines that the medication is medically necessary to kill or slow the growth of cancerous cells in a manner consistent with nationally accepted standards of practice.

(d) This section is effective for policy and plan years beginning on or after January 1, 2016. This section applies to all group accident and sickness insurance policies and plans subject to this article that are delivered, executed, issued, amended, adjusted or renewed in this state, on and after the effective date of this section.

(e) Notwithstanding any other provision in this section to the contrary, in the event that an insurer can demonstrate actuarially to the Insurance Commissioner that its total costs for compliance with this section will exceed or have exceeded two percent of the total costs for all accident and sickness insurance coverage issued by the insurer subject to this article in any experience period, then the insurer may apply whatever cost containment measures may be necessary to maintain costs below two percent of the total costs for the coverage: Provided, That the cost containment measures implemented are applicable only for the plan year or experience period following approval of the request to implement cost containment measures.

(f) For any enrollee that is enrolled in a catastrophic plan as defined in Section 1302(e) of the Affordable Care Act or in a plan that, but for this requirement, would be a High Deductible Health Plan as defined in section 223(c)(2)(A) of the Internal
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Revenue Code of 1986, and that, in connection with every enrollment, opens and maintains for each enrollee a Health Savings Account as that term is defined in section 223(d) of the Internal Revenue Code of 1986, the cost-sharing limit outlined in subsection (a) of this section shall be applicable only after the minimum annual deductible specified in section 223(c)(2)(A) of the Internal Revenue Code of 1986 is reached. In all other cases, this limit shall be applicable at any point in the benefit design, including before and after any applicable deductible is reached.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3x. Deductibles, copayments and coinsurance for anti-cancer medications.

(a) Any group accident and sickness insurance policy issued by an insurer pursuant to this article that covers anti-cancer medications that are injected or intravenously administered by a health care provider and patient administered anti-cancer medications, including, but not limited to, those medications orally administered or self-injected, may not require a less favorable basis for a copayment, deductible or coinsurance amount for patient administered anti-cancer medications than it requires for injected or intravenously administered anti-cancer medications, regardless of the formulation or benefit category determination by the policy or plan.

(b) A group accident and sickness insurance policy may not comply with subsection (a) of this section by:

(1) Increasing the copayment, deductible or coinsurance amount required for injected or intravenously administered anti-cancer medications that are covered under the policy or plan; or

(2) Reclassifying benefits with respect to anti-cancer medications.
(c) As used in this section, "anti-cancer medication" means a FDA approved medication prescribed by a treating physician who determines that the medication is medically necessary to kill or slow the growth of cancerous cells in a manner consistent with nationally accepted standards of practice.

(d) This section is effective for policy and plan years beginning on or after January 1, 2016. This section applies to all group accident and sickness insurance policies and plans subject to this article that are delivered, executed, issued, amended, adjusted or renewed in this state, on and after the effective date of this section.

(e) Notwithstanding any other provision in this section to the contrary, in the event that an insurer can demonstrate actuarially to the Insurance Commissioner that its total anticipated costs for any plan to comply with this section will exceed or have exceeded two percent of the total costs for such plan in any experience period, then the insurer may apply whatever cost containment measures may be necessary to maintain costs below two percent of the total costs for the plan: Provided, That such cost containment measures implemented are applicable only for the plan year following approval of the request to implement cost containment measures.

(f) For any enrollee that is enrolled in a catastrophic plan as defined in Section 1302(e) of the Affordable Care Act or in a plan that, but for this requirement, would be a High Deductible Health Plan as defined in section 223(c)(2)(A) of the Internal Revenue Code of 1986, and that, in connection with every enrollment, opens and maintains for each enrollee a Health Savings Account as that term is defined in section 223(d) of the Internal Revenue Code of 1986, the cost-sharing limit outlined in subsection (a) of this section shall be applicable only after the minimum annual deductible specified in section 223(c)(2)(A) of the Internal Revenue Code of 1986 is reached. In all other cases,
ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7m. Deductibles, copayments and coinsurance for anti-cancer medications.

(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, any group accident and sickness insurance policy, plan, contract or agreement issued by an entity regulated by this article that covers anti-cancer medications that are injected or intravenously administered by a health care provider and patient administered anti-cancer medications, including, but not limited to, those medications orally administered or self-injected, may not require a less favorable basis for a copayment, deductible or coinsurance amount for patient administered anti-cancer medications than it requires for injected or intravenously administered anti-cancer medications, regardless of the formulation or benefit category determination by the policy or plan.

(b) An accident or sickness insurance policy, plan, contract or agreement may not comply with subsection (a) of this section by:

(1) Increasing the copayment, deductible or coinsurance amount required for injected or intravenously administered anti-cancer medications that are covered under the policy or plan; or

(2) Reclassifying benefits with respect to anti-cancer medications.

(c) As used in this section, “anti-cancer medication” means a FDA approved medication prescribed by a treating physician who determines that the medication is medically necessary to
kill or slow the growth of cancerous cells in a manner consistent
with nationally accepted standards of practice.

(d) This section is effective for policy and plan years
beginning on or after January 1, 2016. This section applies to all
group accident and sickness insurance policies and plans subject
to this article that are delivered, executed, issued, amended,
adjusted or renewed in this state, on and after the effective date
of this section.

(e) Notwithstanding any other provision in this section to the
contrary, in the event that an entity subject to this article can
demonstrate actuarially to the Insurance Commissioner that its
total anticipated costs for any policy, plan, contract or agreement
to comply with this section will exceed or have exceeded two
percent of the total costs for such policy, plan, contract or
agreement in any experience period, then the entity may apply
whatever cost containment measures may be necessary to
maintain costs below two percent of the total costs for the policy,
plan, contract or agreement: Provided, That such cost
containment measures implemented are applicable only for the
plan year or experience period following approval of the request
to implement cost containment measures.

(f) For any enrollee that is enrolled in a catastrophic plan as
defined in Section 1302(e) of the Affordable Care Act or in a
plan that, but for this requirement, would be a High Deductible
Health Plan as defined in section 223(c)(2)(A) of the Internal
Revenue Code of 1986, and that, in connection with every
enrollment, opens and maintains for each enrollee a Health
Savings Account as that term is defined in section 223(d) of the
Internal Revenue Code of 1986, the cost-sharing limit outlined
in subsection (a) of this section shall be applicable only after the
minimum annual deductible specified in section 223(c)(2)(A) of
the Internal Revenue Code of 1986 is reached. In all other cases,
§33-25-8j. Deductibles, copayments and coinsurance for anti-cancer medications.

(a) Notwithstanding any provision of any policy, contract, plan or agreement to which this article applies, a policy, contract, plan or agreement issued to a member or subscriber by an entity regulated by this article that covers anti-cancer medications that are injected or intravenously administered by a health care provider and patient administered anti-cancer medications, including, but not limited to, those medications orally administered or self-injected, may not require a less favorable basis for a copayment, deductible or coinsurance amount for patient administered anti-cancer medications than it requires for injected or intravenously administered anti-cancer medications, regardless of the formulation or benefit category determination by the policy or plan.

(b) A contract issued to a member or subscriber that is subject to this article may not comply with subsection (a) of this section by:

(1) Increasing the copayment, deductible or coinsurance amount required for injected or intravenously administered anti-cancer medications that are covered under the policy, contract, or plan or agreement; or

(2) Reclassifying benefits with respect to anti-cancer medications.

(c) As used in this section, “anti-cancer medication” means a FDA approved medication prescribed by a treating physician who determines that the medication is medically necessary to
kill or slow the growth of cancerous cells in a manner consistent
with nationally accepted standards of practice.

(d) This section is effective for policy, plan or agreement
years beginning on or after January 1, 2016. This section applies
to all policies, plans, contracts or agreements subject to this
article that are delivered, executed, issued, amended, adjusted or
renewed in this state, on and after the effective date of this
section.

(e) Notwithstanding any other provision in this section to the
contrary, in the event that an entity subject to this article can
demonstrate actuarially to the Insurance Commissioner that its
total anticipated costs for benefits to all members or subscribers
to comply with this section will exceed or have exceeded two
percent of the total costs for all benefits of the policy, plan,
contract or agreement in any experience period, then the entity
may apply whatever cost containment measures may be
necessary to maintain costs below two percent of the total costs
for the policy, plan, contract or agreement: Provided, That such
cost containment measures implemented are applicable only for
the plan year or experience period following approval of the
request to implement cost containment measures.

(f) For any enrollee that is enrolled in a catastrophic plan as
defined in Section 1302(e) of the Affordable Care Act or in a
plan that, but for this requirement, would be a High Deductible
Health Plan as defined in section 223(c)(2)(A) of the Internal
Revenue Code of 1986, and that, in connection with every
enrollment, opens and maintains for each enrollee a Health
Savings Account as that term is defined in section 223(d) of the
Internal Revenue Code of 1986, the cost-sharing limit outlined
in subsection (a) of this section shall be applicable only after the
minimum annual deductible specified in section 223(c)(2)(A) of
the Internal Revenue Code of 1986 is reached. In all other cases,
§33-25A-8I. Deductibles, copayments and coinsurance for anti-cancer medications.

(a) Notwithstanding any provision of any policy, contract, plan or agreement to which this article applies, any policy, contract, plan or agreement issued by a health maintenance organization pursuant to this article that covers anti-cancer medications that are injected or intravenously administered by a health care provider and patient administered anti-cancer medications, including, but not limited to, those medications orally administered or self-injected, may not require a less favorable basis for a copayment, deductible or coinsurance amount for patient administered anti-cancer medications than it requires for injected or intravenously administered anti-cancer medications, regardless of the formulation or benefit category determination by the policy or plan.

(b) A policy, contract, plan or agreement or a health maintenance organization may not comply with subsection (a) of this section by:

(1) Increasing the copayment, deductible or coinsurance amount required for injected or intravenously administered anti-cancer medications that are covered under the policy, contract, or plan or agreement; or

(2) Reclassifying benefits with respect to anti-cancer medications.

(c) As used in this section, "anti-cancer medication" means a FDA approved medication prescribed by a treating physician who determines that the medication is medically necessary to
kill or slow the growth of cancerous cells in a manner consistent with nationally accepted standards of practice.

(d) This section is effective for policy, contract, plan or agreement beginning on or after January 1, 2016. This section applies to all policies, contracts, plans or agreements subject to this article that are delivered, executed, issued, amended, adjusted or renewed in this state, on and after the effective date of this section.

(e) Notwithstanding any other provision in this section to the contrary, in the event that a health maintenance organization subject to this article can demonstrate actuarially to the Insurance Commissioner that its total anticipated costs for any health maintenance contract to comply with this section will exceed or have exceeded two percent of the total costs for the policy, contract, plan or agreement in any experience period, then the health maintenance organization may apply whatever cost containment measures may be necessary to maintain costs below two percent of the total costs for the policy, contract, plan or agreement: Provided, That such cost containment measures implemented are applicable only for the plan year or experience period following approval of the request to implement cost containment measures.

(f) For any enrollee that is enrolled in a catastrophic plan as defined in Section 1302(e) of the Affordable Care Act or in a plan that, but for this requirement, would be a High Deductible Health Plan as defined in section 223(c)(2)(A) of the Internal Revenue Code of 1986, and that, in connection with every enrollment, opens and maintains for each enrollee a Health Savings Account as that term is defined in section 223(d) of the Internal Revenue Code of 1986, the cost-sharing limit outlined in subsection (a) of this section shall be applicable only after the minimum annual deductible specified in section 223(c)(2)(A) of the Internal Revenue Code of 1986 is reached. In all other cases,
this limit shall be applicable at any point in the benefit design, including before and after any applicable deductible is reached.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 25th day of March, 2015.

Governor