

WEST VIRGINIA LEGISLATURE FILED

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2016 REGULAR SESSION

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Committee Substitute

for

House Bill 4146

(BY DELEGATES ELLINGTON, SUMMERS, BATES, FAIRCLOTH,
HOUSEHOLDER, ROHRBACH, SOBONYA, STANSBURY, ELDRIDGE,
MCCUSKEY AND FRICH)

[Passed on March 12, 2016; in effect ninety days from passage.]

HB 4146

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HOUSEHOLDER, ROHRBACH, SOBONYA, STANSBURY, ELDRIDGE,
MCCUSKEY AND FRICH)

[Passed on March 12, 2016; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §33-15-4m; to amend said code by adding thereto a new section, designated
3 §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n;
4 to amend said code by adding thereto a new section, designated §33-25-8k; and to amend
5 said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-
6 deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid
7 analgesic drugs; providing direct health care services cover abuse-deterrent opioid
8 analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs;
9 defining terms; providing an effective date; providing for cost sharing; providing for cost
10 tier location; and allowing cost containment measures.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4m. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic drugs.

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse-
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or other
7 out-of-pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any accident and sickness insurance policy issued
14 by an insurer, on or after January 1, 2017:

15 (1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug
16 product for each active opioid analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy; and

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an
25 abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this
28 section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid
29 analgesic drug product covered by the entity, if the same utilization review requirements are
30 applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

32 (d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-
33 sharing level shall not mean the cost-sharing tier applicable to preventive care services which are
34 required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

**§33-16-3y. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic
drugs.**

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse-
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or other
7 out-of-pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any group accident and sickness insurance policy
14 issued by an insurer pursuant to this article, on or after January 1, 2017:

15 (1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug
16 product for each active opioid analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy; and

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an
25 abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this
28 section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid
29 analgesic drug product covered by the entity, if the same utilization review requirements are
30 applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

32 (d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-
33 sharing level shall not mean the cost-sharing tier applicable to preventive care services which are
34 required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE
CORPORATIONS, DENTAL SERVICE CORPORATIONS AND
HEALTH SERVICE CORPORATIONS.**

**§33-24-7n. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic
drugs.**

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse-
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or other
7 out-of-pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
14 which this article applies, on or after January 1, 2017:

15 (1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug
16 product for each active opioid analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy; and

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an
25 abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this
28 section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid
29 analgesic drug product covered by the entity, if the same utilization review requirements are
30 applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

32 (d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-
33 sharing level shall not mean the cost-sharing tier applicable to preventive care services which are
34 required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

ARTICLE 25. HEALTH CARE CORPORATIONS.

**§33-25-8k. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic
drugs.**

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse-
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or other
7 out-of-pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
14 which this article applies, on or after January 1, 2017:

15 (1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug
16 product for each active opioid analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy; and

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an
25 abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this
28 section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid
29 analgesic drug product covered by the entity, if the same utilization review requirements are
30 applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

32 (d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-
33 sharing level shall not mean the cost-sharing tier applicable to preventive care services which are
34 required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8m. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic drugs.

1 (a) As used in this section:

2 (1) "Abuse-deterrent opioid analgesic drug product" means a brand name or generic opioid
3 analgesic drug product approved by the United States Food and Drug Administration with abuse-
4 deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its
5 abuse;

6 (2) "Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or other
7 out-of-pocket expense requirements;

8 (3) "Opioid analgesic drug product" means a drug product that contains an opioid agonist
9 and is indicated by the United States Food and Drug Administration for the treatment of pain,
10 regardless of whether the drug product:

11 (A) Is in immediate release or extended release form; or

12 (B) Contains other drug substances.

13 (b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to
14 which this article applies, on or after January 1, 2017:

15 (1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug
16 product for each active opioid analgesic ingredient;

17 (2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not
18 exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription
19 drug coverage;

20 (3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing level applied to generic
22 prescription drugs covered under the applicable health plan or policy; and

23 (4) An entity subject to this section may not require an insured or enrollee to first use an
24 opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an
25 abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription
26 drug coverage.

27 (c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this
28 section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid
29 analgesic drug product covered by the entity, if the same utilization review requirements are
30 applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug
31 release, immediate or extended.

32 (d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-
33 sharing level shall not mean the cost-sharing tier applicable to preventive care services which are
34 required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

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


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Chairman, House Committee


.....
Chairman, Senate Committee

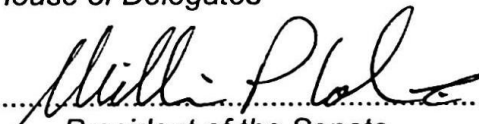
Originating in the House.

In effect ninety days from passage.


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Clerk of the House of Delegates


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Clerk of the Senate


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Speaker of the House of Delegates


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President of the Senate

The within is approved this the 29th
day of March, 2016.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 24 2013

Time 3:44 pm