



West Virginia's Oral Anticancer Treatment Access Law: What Clinicians Need to Know



Outdated coverage policies in West Virginia USED TO limit cancer patients' access to life-saving drugs!

Traditionally, IV chemotherapy treatments are covered under a health plan's medical benefit where the patient is required to pay an office visit copay, usually between \$20 and \$30. Conversely, oral anticancer medications are covered under a health plan's prescription benefit and, many times, patients are responsible for extremely high and unmanageable copays, creating an enormous barrier for patients to access orally administered drugs. According to a recent study published in the Journal of Oncology Practice and American Journal of Managed Care, 10% of cancer patients failed to fill their initial prescriptions for oral anticancer medications due to high out-of-pocket costs.

Legislative Solution

In an effort to remove barriers to accessing life-saving treatments for cancer patients, West Virginia passed legislation in March 2015, which applies to insurance plans issued or renewed on or after January 1, 2016. The law directs health benefit plans that provide coverage for cancer chemotherapy treatment to extend coverage for orally administered anticancer medications at a cost-sharing rate to less favorable to that of to the intravenously administered or injected anticancer medications. **To view West Virginia's oral anticancer medication access law, please see next page.**

What Does This Mean for Patients?

If a patient is *privately insured (the law does not apply to Medicare or ERISA plans)*, and their plan covers chemotherapy, an FDA-approved, orally administered drug should have the same out-of-pocket costs for the patient as an intravenously administered drug. Patients who have High Deductible Health Plans (HDHPs) used with Health Savings Accounts (HSAs) must pay deductibles first.

What to do if an insurance plan does not comply & to find out if the law applies to your health plan:

Please contact the West Virginia Offices of the Insurance Commissioner, Consumer Advocate Division at 1-888-TRY WVIC (888-879-9842) ext 3864 or visit them on the web at <http://www.wvinsurance.gov/ConsumerAdvocate.aspx>.

For information about our oral parity work in Washington, DC, please go to peac.myeloma.org.



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Relating to requirements for insurance policies and contracts providing accident and sickness insurance or direct health care services that cover anti-cancer medications

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:

Identical language is found in each of the five sections below:

- **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**
§33-15-4l. Deductibles, copayments and coinsurance for anti-cancer medications.
- **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**
§33-16-3x. Deductibles, copayments and coinsurance for anti-cancer medications.
- **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.
- **ARTICLE 25. HEALTH CARE CORPORATIONS.**
§33-25-8j. Deductibles, copayments and coinsurance for anti-cancer medications.
- **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**
§33-25A-8l. 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



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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 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.

[Passed March 12, 2015; in effect ninety days from passage.]