

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commission TITLE NUMBER: 114

CITE AUTHORITY: W. Va. Code §§ 33-2-10, 33-15-15, and 33-16C-9

AMENDMENT TO AN EXISTING RULE: YES NO

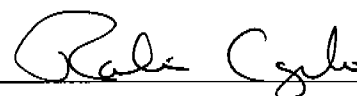
IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 33

TITLE OF RULE BEING AMENDED: Individual and Employer Group Minimum Benefits
Accident and Sickness Insurance Policies

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

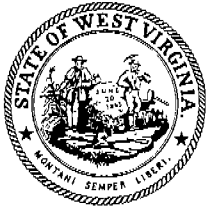
THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Robin C. Capehart, Cabinet Secretary
July 29, 1998

Date

\$5.00



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

CECIL H. UNDERWOOD
Governor

July 30, 1998

HANLEY C. CLARK
Insurance Commissioner

HAND DELIVERED

Ms. Judy Cooper
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- 1) Notice of Agency Approval of a Proposed Rule and filing with the Legislative Rule-Making Review Committee;
- 2) Consent of Tax and Revenue Cabinet Secretary to Proposed Rule;
- 3) Brief Summary of the Rule;
- 4) Statement of Circumstances;
- 5) Fiscal Note;
- 6) Legislative Rule-Making Review Committee Questionnaire; and
- 7) The Agency Approved Proposed Rule Entitled "Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies" (Series 33).

Please contact me if further information is required.

Sincerely,

B. Keith Huffman
General Counsel

BKH/ksb

Enclosures

P.O. Box 50540
Charleston, West Virginia 25305-0540

"We are an Equal Opportunity Employer"

Telephone (304) 558-0401
Facsimile (304) 558-1362

OFFICE OF THE SECRETARY OF STATE
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STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE

CECIL H. UNDERWOOD
GOVERNOR

Charleston, West Virginia
P. O. Box 963
Charleston, WV 25324-0963
Ph. (304) 558-0211 - Fax (304) 558-2324


ROBIN C. CAPEHART
SECRETARY

CONSENT TO PROPOSAL OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code §5F-2-2(a)(12), the undersigned hereby grants consent to the proposal of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 33, relating to Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies.

Dated this 26th day of June, 1997.


Robin Capehart
Secretary of Tax and Revenue

Insurance Commissioner
Legislative Rule
Title 114, Series 33

**INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS
ACCIDENT AND SICKNESS INSURANCE POLICIES**

TITLE 114, SERIES 33

BRIEF SUMMARY OF RULE

This rule is being repealed. House Bill 2667, which codified the federal mandates the Health Insurance Portability and Accountability Act of 1996 (HIPAA), commonly known as the Kennedy-Kassebaum bill, repealed the statutes authorizing this rule, *i.e.* W. Va. Code § 33-15-15 and W. Va. Code §§ 33-16C-1 et seq. The rule is, therefore, no longer necessary.

This is one of the rules which has been the entire rulemaking process, but which were not ratified by the Legislature during the 1997-98 session due to the failure to pass House Bill 4177.

Insurance Commissioner
Legislative Rule
Title 114, Series 33

**INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS
ACCIDENT AND SICKNESS INSURANCE POLICIES**

TITLE 114, SERIES 33

STATEMENT OF CIRCUMSTANCES

On April 12, 1997, the West Virginia Legislature passed House Bill 2667 which codified the federal mandates the Health Insurance Portability and Accountability Act of 1996 (HIPAA), commonly known as the Kennedy-Kassebaum bill. That bill repealed the statutes authorizing this rule, *i.e.* W. Va. Code § 33-15-15 and W. Va. Code §§ 33-16C-1 et seq. The rule is, therefore, no longer necessary.

This is one of the rules which has been the entire rulemaking process, but which were not ratified by the Legislature during the 1997-98 session due to the failure to pass House Bill 4177.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Individual and Employer Group Minimum Benefits Accident and
Sickness Insurance Policies (Series 33)

Type of Rule: Legislative Interpretive Procedural

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

=====

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None				
PERSONAL SERVICES	None				
CURRENT EXPENSE	None				
REPAIRS AND ALTERNATIONS	None				
EQUIPMENT	None				
OTHER	None				

2. Explanation of above estimates:

This rule will have no additional fiscal impact upon state, local or federal government.

Rule Title: Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies (Series 33)

3. Objectives of these rules:

On April 12, 1997, the West Virginia Legislature passed House Bill 2667 which codified the federal mandates the Health Insurance Portability and Accountability Act of 1996 (HIPAA), commonly known as the Kennedy-Kassebaum bill. That bill repealed the statutes authorizing this rule, i.e. W. Va. Code § 33-15-15 and W. Va. Code §§ 33-16C-1 et seq. The rule is, therefore, no longer necessary.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.


None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 7/23/98

Signature of Agency Head or Authorized Representative


B. KEITH HUFFMAN, GENERAL COUNSEL

DATE: JULY 23, 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

LEGISLATIVE RULE TITLE: INDIVIDUAL AND EMPLOYER GROUP MINIMUM
BENEFITS ACCIDENT AND SICKNESS INSURANCE
POLICIES; SERIES 33

1. Authorizing statute(s) citation: West Virginia Code §§ 33-2-10, 33-15-15 and
33-16C-9

2. a. Date filed in State Register with Notice of Hearing: June 3, 1998

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing(s): The public comment period ended on July 6, 1998

d. Attach list of persons who appeared at hearing, comments received,
amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule
following public hearing: (be exact)

July 30, 1998

f. Name and phone number of agency person to contact for additional information:

Donna S. Quesenberry
Associate Counsel
(304) 558-0401

3. If the statute under which you promulgated the submitted rules requires certain
findings and determinations to be made as a condition precedent to their
promulgation:

a. Give the date upon which you filed in the State Register a notice of the time
and place of a hearing for the taking of evidence and a general description of
the issues to be decided.

Not applicable

Insurance Commissioner
Title 114, Series 33

- b. Date of hearing: Not applicable
- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

- d. Attach findings and determinations and reasons:

Attached: Not applicable

114CSR33

~~TITLE 114~~
~~LEGISLATIVE RULE~~
~~INSURANCE COMMISSIONER~~

~~SERIES 33~~
~~INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS ACCIDENT AND~~
~~SICKNESS INSURANCE POLICIES~~

Section

- ~~114-33-1. General~~
- ~~114-33-2. Benefit Structures of Individual and Employer Group Policies~~
- ~~114-33-3. Policy Rates and Forms~~
- ~~114-33-4. Severability~~
- ~~Appendix A. Individual Certification of Eligibility for Minimum Benefits Policy~~
- ~~Appendix B. Employee Certification of Eligibility for Minimum Benefits Policy~~
- ~~Appendix C. Employer Certification of Eligibility for Minimum Benefits Policy~~

114CSR33

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 33
INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS ACCIDENT AND
SICKNESS INSURANCE POLICIES

FILED

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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

~~§ 114-33-1. General~~

~~1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-15-15 and Chapter 33, Article 16C. Code § 33-15-15 directs the Insurance Commissioner to establish minimum benefits for accident and sickness insurance policies for individuals. Chapter 33, Article 16C directs the Commissioner to establish minimum benefits accident and sickness insurance policies for employer groups. This rule defines the benefit structures of these policies and establishes procedures relating to minimum benefit policy rates and forms.~~

~~1.2. Authority. -- West Virginia Code §§ 33-2-10, 33-15-15 and 33-16C-9~~

~~1.3. Filing Date. -- June 18, 1993~~

~~1.4. Effective Date. -- June 18, 1993~~

~~§ 114-33-2. Benefit Structures of Individual and Employer Group Policies~~

~~2.1. The benefit structure for an individual minimum benefits policy shall be the same as the benefit structure for an employer group minimum benefits policy. The benefit structure shall be as follows:~~

~~2.1.a. Inpatient hospitalization -- thirty (30) days per year, with a maximum of one (1) medical visit per inpatient day.~~

~~2.1.b. Outpatient services -- include surgery, anesthesia, preadmission testing, radiation, and chemotherapy (does not include routine diagnostic testing).~~

~~2.1.c. Maternity coverage -- includes prenatal care and delivery.~~

~~2.1.d. Newborn infant care -- covers four (4) office visits during the first twelve (12) months of life.~~

~~2.1.e. Emergency care -- covers a condition if it falls within the following definition: "A nonoccupational accidental injury or illness whose symptoms are of sufficient~~

Insurance Commission
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Title 114, Series 33

~~severity that, if medical attention is not provided within 72 hours, could reasonably be expected to result in an immediate or delayed threat to life, a prolonged hospitalization or an organ or body part not returning to full, normal function; provided, that an illness treated in an emergency room will be covered only if it results in the patient's subsequent admission to the hospital."~~

~~2.2. Any additional benefits an insurer wishes to add to a minimum benefits policy must first be approved by the Insurance Commissioner.~~

~~§ 114-33-3. Policy Rates and Forms~~

~~3.1. Any company licensed to write accident and sickness insurance business in the State of West Virginia may offer a minimum benefits accident and sickness policy, provided, however, that all rates and forms for any such policy shall be submitted to the Insurance Commissioner for approval.~~

~~3.2. A minimum benefits accident and sickness insurance policy may contain provisions specifying that coverage under the policy is secondary to coverage provided under any other applicable health insurance policy or plan.~~

~~3.3. Upon offering coverage under a minimum benefits policy, the insurer shall provide the applicant with a written disclosure statement containing at least the following:~~

~~3.3.a. An explanation of benefits otherwise mandated by state law but not covered by the basic policy;~~

~~3.3.b. An explanation of cost control features of the minimum benefits policy, along with all appropriate mailing addresses and telephone numbers to be utilized by insureds or their family members in seeking information or authorization for treatment; and~~

~~3.3.c. An explanation that the insurance policy is a minimum benefits policy; and~~

~~3.3.d. An explanation of any and all deductibles and/or copayments for which the insured will or may be responsible.~~

~~3.4. This disclosure statement shall be presented in a clear and understandable form and format, and shall be separate from the basic policy or certificate or evidence of coverage provided to an eligible applicant or family member.~~

~~3.5. Before any insurer issues a minimum benefits policy to~~

Insurance Commission
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Title 114, Series 33

~~an individual, it shall obtain from such individual, on the form prescribed in Appendix A:~~

~~3.5.a. Certification from the individual that he or she has been without health insurance coverage for at least one (1) year prior to application for a minimum benefits policy; and~~

~~3.5.b. A signed written statement acknowledging that he or she understands the limited nature of the coverage provided under the minimum benefits policy.~~

~~3.6. Before any insurer issues a minimum benefits policy to an employer group, it shall obtain from each eligible employee to be covered under the minimum benefits policy, on the form prescribed in Appendix B:~~

~~3.6.a. Certification from the employee that the employer group has not provided him or her with health insurance for the past twelve (12) months; and~~

~~3.6.b. A signed written statement acknowledging that the employee understands the limited nature of the coverage provided under the minimum benefits policy.~~

~~3.7. Before any insurer issues a minimum benefits policy to an employer group, it shall obtain from the employer on the form prescribed in Appendix C:~~

~~3.7.a. Certification from the employer that it has not provided health insurance benefits for its employees for the twelve (12) months immediately preceding application for a minimum benefits employer group policy.~~

~~3.7.b. A signed written statement acknowledging that the employer understands the limited nature of the coverage provided under the minimum benefits policy.~~

~~§ 114-33-4. Severability~~

~~If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions to other persons or circumstances shall not be affected thereby.~~

~~APPENDIX A~~

~~INDIVIDUAL CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY~~

~~I hereby certify that I have not had health insurance coverage for the past one (1) year.~~

~~I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on my behalf, and on my dependents' behalf, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceedings.~~

~~I understand and acknowledge that the policy for which I am applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.~~

~~{Signature of Individual Applying
for Insurance}~~

Date

APPENDIX B

~~EMPLOYEE CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY~~

~~I hereby certify that [current employer] has not offered health insurance to me within the past twelve (12) months.~~

~~I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on my behalf, and on my dependents' behalf, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceedings.~~

~~I understand and acknowledge that the policy for which my employer is applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.~~

~~{Signature of Employee}~~

Date

APPENDIX C

EMPLOYER CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY

I, _____, hold the position of _____ for _____ with its principal office at _____, and having express authority to provide the information contained herein, hereby state and certify that [employer] has not offered health insurance coverage to all of its employees for the past twelve (12) months.

I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on behalf of the employees of (Group Name) and their dependents, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceeding.

I understand and acknowledge that the policy for which [employer] in applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.

{Signature of Employer's
Representative}

Title

Date