

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #3

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**FILED**  
2009 JUL 17 PM 3:49  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W.Va. Code §§33-2-10 and 16-2J-7(3)

AMENDMENT TO AN EXISTING RULE: YES  NO

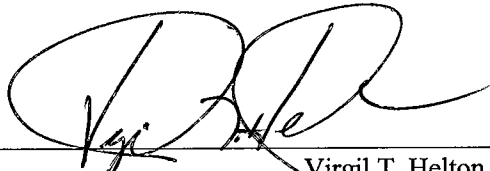
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 87

TITLE OF RULE BEING PROPOSED: Preventive Care Pilot Program

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.

  
\_\_\_\_\_  
Virgil T. Helton  
Cabinet Secretary  
West Virginia Department of Revenue

\$4.00

Insurance Commissioner  
Legislative Rule  
Title 114, Series 87

**PREVENTIVE CARE PILOT PROGRAM**

**TITLE 114, SERIES 87**

**BRIEF SUMMARY OF RULE**

The rule permits participation in the Preventive Care Pilot Program, as created by W. Va. Code §16-2J-1, et seq., by an individual or employer with a comprehensive high deductible health benefit plan if the individual or employer is able to demonstrate that the participation will not negatively impact the coverage that is currently offered or will be offered by the employer. The rule also requires a participating provider to give notice to the individual or employer that the payment for the prepaid services may or may not count towards the health insurance deductible, the determination of which will depend on the health insurance policy language.

## QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

**DATE:**

**TO:** LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

**FROM:** OFFICE OF THE INSURANCE COMMISSIONER  
ATTN: Legal Division  
1124 Smith Street  
Post Office Box 50540  
Charleston, West Virginia 25305-0540

**LEGISLATIVE RULE TITLE:** Preventive Care Pilot Program, Title  
114, Seris 87

1. **Authorizing statute(s) citation:**

W. Va. Code §§33-2-10 and 16-2J-7(3).

2. **a. Date filed in State Register with Notice of Hearing or Public Comment Period:**

May 26, 2009 - Comment Period.

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

N/A

**c. Date of Public Hearing(s) or Public Comment Period ended:**

June 25, 2009 - End of Comment Period.

**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)**

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Timothy R. Murphy, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: (304) 558-6279, Ext. 1210  
Fax: (304) 558-1362  
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same.

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:

N/A

- 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.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

N/A

APPENDIX B  
**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Preventive Care Pilot Program (Title 114, Series 87)

Type of Rule:  X  Legislative   Interpretive   Procedural

Agency: WV Offices of the Insurance Commissioner

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

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	N/A	N/A	N/A
Personal Services	N/A	N/A	N/A
Current Expenses	N/A	N/A	N/A
Repairs & Alterations	N/A	N/A	N/A
Assets	N/A	N/A	N/A
Equipment	N/A	N/A	N/A
Other	N/A	N/A	N/A
<b>2. Estimated Total Revenues</b>	N/A	N/A	N/A

Rule Title: Preventive Care Pilot Program (Title 114, Series 87)

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

N/A

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: May 26, 2009

Signature of Agency Head or Authorized Representative

Timothy Murphy, Associate Counsel

Insurance Commissioner  
Legislative Rule  
Title 114, Series 87

**PREVENTIVE CARE PILOT PROGRAMS**

**TITLE 114, SERIES 87**

**STATEMENT OF CIRCUMSTANCES**

The bill mandating the promulgation of rules to address high deductible health benefit plans within the Preventive Care Pilot Program was enacted in 2009 (SB 669) and is effective July 8, 2009. With the passage of Senate Bill 669, W.Va. Code §33-2J-7(3) provides the following:

"On or before July 1, 2009, the Health Care Authority and the Insurance Commissioner shall propose a rule for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to permit participation by a subscriber or employer with a comprehensive high deductible plan if the subscriber or employer is able to demonstrate that the participation will not negatively impact the coverage that is currently offered or will be offered by the employer. The rule shall provide for notice to the subscriber or employer that the payment for the prepaid services may or may not count towards the health insurance deductible, the determination of which will depend on the health insurance policy language."

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 87  
PREVENTIVE CARE PILOT PROGRAM**

Section

- 114-87-1. General.
- 114-87-2. Definitions.
- 113-86-3. Participation in Pilot Program by Certain Individuals and Employer Groups.
- 114-87-4. Notice to Individual or Employer.

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 87  
PREVENTIVE CARE PILOT PROGRAM**

**§114-87-1. General.**

1.1. Scope. -- The purpose of this rule is to permit participation in the Preventive Care Pilot Program by an individual or employer with a comprehensive high deductible health benefit plan or policy if the individual or employer is able to demonstrate that the participation will not negatively impact the coverage that is currently offered or will be offered by the employer. The rule also requires a participating provider to give notice to the individual or employer that the payment for the prepaid services may or may not count towards the health insurance deductible, the determination of which will depend on the health insurance policy language.

1.2. Authority. -- W. Va. Code §§33-2-10 and 16-2J-7(3).

1.3. Filing Date. --

1.4. Effective Date. --

**§114-87-2. Definitions.**

2.1. "High deductible plan" means a health benefit plan or policy with a minimum individual annual deductible of \$3,000 or, if applicable, a family annual deductible of \$3,000.

2.2. "Low deductible plan" means a health benefit plan or policy with a maximum individual annual deductible of \$2,999.99 or, if applicable, a family annual deductible of \$2,999.99.

2.3. "Participating provider" means a provider that has been granted a license under article 2J, chapter 16 of the West Virginia Code to offer a Plan and operate as part of the Preventive Care Pilot Program created by said article.

2.4. "Plan" means a health benefit plan or policy offered by a participating provider pursuant to W. Va. Code §16-2J-1, *et seq.*

**§114-87-3. Participation in Pilot Program by Certain Individuals and Employer Groups.**

3.1. Unless otherwise prohibited by this rule, a participating provider may offer a Plan to an individual if the individual is covered by a high deductible plan and a participating provider

**Title 114, Series 87  
Legislative Rule  
Insurance Commissioner**

may offer a Plan to an employer group if the employer group is covered by a high deductible plan.

3.2. An individual or employer with a high deductible plan may not purchase a Plan from a participating provider unless the subscriber or employer is able to demonstrate that participation in the Plan will not negatively impact the health insurance coverage that is currently offered or will be offered by the employer.

3.3. Any individual who has converted his or her health benefit plan or policy from a low deductible plan to a high deductible plan may not purchase a Plan from a participating provider for three (3) months from date of conversion.

3.4. Any employer who has converted its health benefit plan from a low deductible plan to a high deductible health benefit plan may not purchase a plan from a participating provider for six (6) months from the date of conversion.

**§114-87-4. Notice to Individual or Employer.**

4.1. Prior to the purchase of a Plan by an individual or employer having a high deductible plan, the participating provider shall give the individual or employer a notice that indicates that premiums paid under the Plan may not count towards a health insurance deductible. The notice shall further provide that any credit towards a health insurance deductible will depend on the health insurance policy or certificate language.