



## WEST VIRGINIA INSURANCE BULLETIN No. 26-01

*Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.*

### ► Prescription Drug Rebate Impact to Commercial Health Insurance Plans ◀

In 2021, the Legislature passed House Bill 2263 amending West Virginia's Pharmacy Audit Integrity Act (PAIA) located in Chapter 33, Article 51 of the West Virginia Code. The 2021 updates to the PAIA generally went into effect on January 1, 2022. One of the more substantive updates to the law was regarding prescription drug rebates. The West Virginia Offices of the Insurance Commissioner (OIC) is issuing this Insurance Bulletin to publicly provide frequently requested information regarding the effects of the prescription drug rebate law on health insurance rates as reported by commercial health insurers to the OIC.

W.Va. Code §33-51-9(k) provides “a covered individual’s defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100 percent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Any rebate over and above the defined cost sharing would then be passed on to the health plan to reduce premiums.”<sup>1</sup> This provision of the PAIA is oftentimes referred to as the “point-of-sale” or “pass-through rebate” provision. Any rebate calculated by a pharmacy benefit manager (PBM) to be over and above a covered individual’s defined cost sharing may not be retained by the PBM but must be passed on to the health benefit plan and must be used by the health benefit plan to reduce the cost of premiums. *See* W.Va. Code St. R. §114-99-5.14.3.

Beginning in 2023, the OIC asked health insurers who file rates with the OIC to calculate the total amount of rebates received on prescription drugs and to assess the impact thereof on health insurance rates. Health insurers have been asked to separate the rate effect due to West Virginia’s prescription drug rebate law from the health insurer’s otherwise filed rate request without the effect of the prescription drug rebate law. Health insurers have complied and provided the OIC with the percentage that their annual rate request was reduced due to receipt of prescription drug rebates. Data submitted to the OIC by the health insurers is subsequently reviewed by OIC contracted actuaries.<sup>2</sup> Health insurers who have submitted this information in their annual filings are Aetna Health Insurance Company, CareSource West Virginia Company, Highmark Blue Cross Blue Shield, The Health Plan of West Virginia, THP Insurance Company, UnitedHealthcare Insurance Company, and Optimum Choice, Inc.

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<sup>1</sup> W.Va. Code §33-51-3 defines “defined cost sharing” as “a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee’s health plan.” <sup>2</sup> The OIC does not currently possess specific data on how rebates affected the rate filings of specific insurers prior to 2022. Prior to the implementation of the point-of-sale or pass-through rebate law, PBMs and health insurers were able to negotiate rebate contract terms. Some insurers may have required 100% of rebates to be passed through to the insurer, while other insurers may have allowed their PBM to retain rebates, or portions thereof, as part of the PBM’s compensation.

2023 Filings (2024 Plan Year):

Insurer	Plan Type	Rate Change Without Pass-Through Rebate	Pass-Through Rebate Effect on Rate	Final Rate Change
Company A	Any Size	17.10%	-5.50%	11.60%
Company A	Large Group	16.20%	-5.50%	10.70%
Company B	Individual	6.10%	-3.10%	3.00%
Company C	Individual	10.40%	-8.30%	2.10%
Company C	Small Group	13.50%	-7.10%	6.40%
Company C	Large Group	9.60%	-1.80%	7.80%
Company D	Individual	6.57%	-6.72%	-0.15%
Company D	Small Group	16.18%	-6.28%	9.90%
Company E	Small Group	6.41%	-5.55%	0.86%
Company F	Small Group	29.60%	-14.00%	15.60%
Company G	Small Group	29.40%	-14.00%	15.40%

2024 Filings (2025 Plan Year):

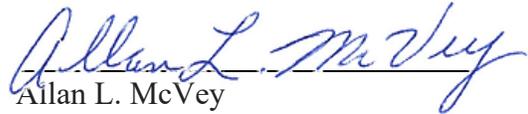
Insurer	Plan Type	Rate Change Without Pass-Through Rebate	Pass-Through Rebate Effect on Rate	Final Rate Change
Company A	Any Size	18.80%	-6.20%	12.60%
Company A	Large Group	18.70%	-6.20%	12.50%
Company B	Individual	15.097%	-2.75%	12.347%
Company C	Individual	12.30%	-9.60%	2.70%
Company C	Small Group	17.60%	-9.67%	7.93%
Company C	Large Group	17.30%	-0.70%	16.60%
Company C	Transitional	18.90%	-10.30%	8.60%
Company D	Individual	7.72%	-7.45%	0.27%
Company D	Small Group	17.80%	-7.07%	10.73%
Company E	Small Group	11.89%	-7.60%	4.29%
Company F	Small Group	21.80%	-11.70%	10.10%
Company F	Large Group	5.21%	0.00%	5.21%
Company G	Small Group	21.900%	-11.70%	10.200%

2025 Filings (2026 Plan Year)

Company	Plan Type	Rate Change Without Pass-Through Rebate	Pass-Through Rebate Effect on Rate	Final Rate Change
Company A	Any Size	24.70%	-8.00%	16.70%
Company A	Large Group	26.00%	-8.00%	18.00%
Company B	Individual	9.300%	-2.20%	7.100%
Company C	Large Group	21.10%	-7.70%	13.40%
Company C	Individual	20.20%	-6.30%	13.90%
Company C	Small Group	25.11%	-8.91%	16.20%
Company D	Individual	15.81%	-7.93%	7.88%
Company D	Small Group	24.38%	-7.56%	16.82%
Company D	Large Group	15.82%	-8.42%	7.40%
Company E	Small Group	28.67%	-7.50%	21.17%
Company E	Large Group	5.09%	-8.00%	-2.91%
Company F	Small Group	12.57%	-2.62%	9.95%
Company F	Large Group	22.60%	-13.00%	9.60%
Company G	Large Group	22.60%	-13.00%	9.60%
Company G	Small Group	10.10%	-1.30%	8.80%

Please e-mail any questions concerning this Insurance Bulletin to [OICBulletins@wv.gov](mailto:OICBulletins@wv.gov).

**Issued: February 2, 2026**

  
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