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Responsible Staff: **PEIA Eligibility**  
**PEIA Legal**

## Spousal Surcharge Policy

### Purpose:

The purpose and intent of this policy is to provide guidance to members and staff as it relates to the implementation and enforcement of the requirements of West Virginia Code §5-16-13(2) and the Spousal Surcharge requirement(s) hereafter referred to as the “SPSU”.

### Scope:

West Virginia Code §5-16-13(2) states the SPSU applies to anyone who has insurance available through their employer. If the plan is ACA compliant, the spousal surcharge would apply.

### Exceptions

The following are excluded from the SPSU requirements

- ☐ Non-State Agency employees
- ☐ Spouses who are employed by a PEIA participating agency
- ☐ Spouses who are Medicare eligible
- ☐ Spouses who have Medicaid
- ☐ Spouses who have Tricare
- ☐ Spouses who are retired from their employer

### Policy:

Policyholder Members who elect to carry their spouse as a dependent on their PEIA plan(s) are required to report to PEIA if their spouse has health insurance available to them through the spouse's employer. For purposes of defining what is “health insurance” through an employer, the following shall apply:

PEIA recognizes “health insurance” as any employer offered or sponsored insurance that the Affordable Care Act (ACA) views as compliant health insurance and refers to health insurance policies that meet the requirements set forth by the ACA. These plans must provide essential health benefits, limit out-of-pocket costs, and adhere to all applicable ACA regulations regarding coverage and pre-existing conditions. All new major medical policies sold after January 1, 2014, are required to be ACA-compliant.

For purposes of this policy, the cost(s) to the spouse of the ACA compliant health insurance offered through their employer is/are not a factor in determining the implementation of the SPSU.

### **Common types of non-ACA compliant employer offered health coverage**

1. **Short-term health insurance:** Provides temporary coverage for a limited time and can have limits on duration and renewals depending on state regulations. These plans can deny coverage based on pre-existing conditions and don't have to cover essential health benefits
2. **Health care sharing ministries:** Organizations where members share medical costs based on shared beliefs. They are not insurance, do not guarantee payment, and are not subject to the same regulations or consumer protections as insurance plans.
3. **Fixed indemnity plans:** Pay a fixed amount for specific services, like a hospital stay, up to a set limit. They do not cover all medical costs.
4. **Supplemental insurance:** Plans like accident, critical illness, or cancer-only policies. These are designed to supplement other coverage by providing lump-sum payments or specific benefits rather than comprehensive medical coverage.
5. **Direct primary care:** A practice where you pay a monthly fee for primary care services from a specific provider. These arrangements do not cover hospital stays or prescription drugs and are not a substitute for comprehensive health insurance.

There are also employers who offer their employees a QSEHRA, or "Qualified Small Employer Health Reimbursement Arrangement" which is a stipend to purchase an individual plan of their choosing. Although they may choose an ACA compliant plan, PEIA does not consider it an employer group health plan.

### **Procedure:**

1. The Director, or his/her designee, shall determine the method(s) and interval(s) in which policyholders have to report the insurance eligibility of their dependent spouse(s).
2. The Director, or his/her designee, reserve the right to conduct audits and/or may request additional documentation from the policyholder member and/or the member's participating agency to substantiate the eligibility of the dependent spouse. Failure to provide the requested documentation in the specified timeframe can and will result in the spousal surcharge being applied, until the information is submitted.
3. The Director reserves the right to amend, update, modify, or otherwise change this policy as needed.

### **Authority and Reference:**

1. West Virginia Code §5-16-13(2)
2. West Virginia Code §5-16-12
3. West Virginia Code §5-16-12a
4. The Affordable Care Act