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HOUSE BILL 273

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Deborah A. Armstrong

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE PUBLIC ASSISTANCE ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE ENROLLEES WITH PARITY OF ACCESS AND PAYMENT BETWEEN PARTICIPATING MAIL-ORDER PHARMACIES AND PARTICIPATING COMMUNITY PHARMACIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"~~[NEW MATERIAL]~~ PHARMACY BENEFITS--PARTICIPATING PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act, that offers a prescription drug or device

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1 benefit shall permit an enrollee to fill a covered prescription
2 at his or her option at any participating community pharmacy or
3 participating mail-order pharmacy; provided that the
4 participating community pharmacy accepts reimbursement at a
5 rate comparable to that of a participating mail-order pharmacy.

6 B. A group health plan shall not impose a
7 copayment, coinsurance or other condition on an enrollee who
8 elects to fill a covered prescription from a participating
9 community pharmacy that is not also imposed on an enrollee who
10 elects to fill a covered prescription at a participating mail-
11 order pharmacy.

12 C. As used in this section:

13 (1) "covered prescription" means a drug or
14 device for which a group health plan has agreed to make
15 reimbursement under the terms of the group health plan;

16 (2) "participating community pharmacy" means a
17 retail pharmacy:

18 (a) for which a majority of the
19 pharmacy's business in the state is not conducted as a mail-
20 order pharmacy; and

21 (b) that has agreed to accept a group
22 health plan's contracted payment rate, and, pursuant to this
23 agreement, an enrollee may fill a prescription and pay a
24 copayment or coinsurance that is more advantageous to the
25 enrollee than the copayment or coinsurance for a prescription

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1 sought from a retail pharmacy that has not agreed to the group
2 health plan's contracted payment rate; and

3 (3) "participating mail-order pharmacy" means
4 a retail pharmacy:

5 (a) located in the United States;

6 (b) for which the majority of the
7 pharmacy's business consists of dispensing a prescription drug
8 or device under a prescription drug order and having the drug
9 or device delivered to a patient by the United States mail, a
10 common carrier or a delivery service. Mail-order pharmacies
11 include, but are not limited to, pharmacies that do business
12 via the internet or other electronic media; and

13 (c) that has agreed to accept a group
14 health plan's contracted payment rate, and, pursuant to this
15 agreement, an enrollee may fill a prescription and pay a
16 copayment or coinsurance that is more advantageous to the
17 enrollee than the copayment or coinsurance for a prescription
18 sought from a retail pharmacy that has not agreed to the group
19 health plan's contracted payment rate."

20 SECTION 2. A new section of the Public Assistance Act is
21 enacted to read:

22 "[NEW MATERIAL] MEDICAL ASSISTANCE--PHARMACY BENEFITS--
23 PARTICIPATING PHARMACIES--ACCESS PARITY--COPAYMENT AND
24 COINSURANCE PARITY.--

25 A. The secretary shall adopt and promulgate rules

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1 to provide that a prescription drug or device benefit provided
2 to medical assistance recipients shall permit a recipient to
3 fill a covered prescription at his or her option at any
4 participating community pharmacy or participating mail-order
5 pharmacy; provided that the participating community pharmacy
6 accepts reimbursement at a rate comparable to that of a
7 participating mail-order pharmacy.

8 B. A medical assistance program or a managed care
9 plan shall not impose a copayment, coinsurance or other
10 condition on a recipient who elects to fill a covered
11 prescription from a participating community pharmacy that is
12 not also imposed on a recipient who elects to fill a covered
13 prescription at a participating mail-order pharmacy.

14 C. As used in this section:

15 (1) "covered prescription" means a drug or
16 device for which a medical assistance program or managed care
17 plan has agreed to make reimbursement under the terms of the
18 medical assistance program or managed care plan;

19 (2) "managed care plan" means health coverage
20 offered by person eligible to enter into risk-based prepaid
21 capitation agreements with the department pursuant to a state
22 medical assistance program;

23 (3) "participating community pharmacy" means a
24 retail pharmacy:

25 (a) for which a majority of the

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1 pharmacy's business in the state is not conducted as a mail-
2 order pharmacy; and

3 (b) that has agreed to accept a medical
4 assistance program's or managed care plan's contracted payment
5 rate, and, pursuant to this agreement, a recipient may fill a
6 prescription and pay a copayment or coinsurance that is more
7 advantageous to the recipient than the copayment or coinsurance
8 for a prescription sought from a retail pharmacy that has not
9 agreed to the medical assistance program's or managed care
10 plan's contracted payment rate; and

11 (4) "participating mail-order pharmacy" means
12 a retail pharmacy:

13 (a) located in the United States;

14 (b) for which the majority of the
15 pharmacy's business consists of dispensing a prescription drug
16 or device under a prescription drug order and having the drug
17 or device delivered to a patient by the United States mail, a
18 common carrier or a delivery service. Mail-order pharmacies
19 include, but are not limited to, pharmacies that do business
20 via the internet or other electronic media; and

21 (c) that has agreed to accept a medical
22 assistance program's or managed care plan's contracted payment
23 rate, and, pursuant to this agreement, a recipient may fill a
24 prescription and pay a copayment or coinsurance that is more
25 advantageous to the recipient than the copayment or coinsurance

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1 for a prescription sought from a retail pharmacy that has not
2 agreed to the medical assistance program's or managed care
3 plan's contracted payment rate."

4 SECTION 3. A new section of Chapter 59A, Article 22 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING
7 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

8 A. An individual health insurance policy, health
9 care plan or certificate of health insurance that is delivered,
10 issued for delivery or renewed in this state and that provides
11 a prescription drug or device benefit shall permit an insured
12 to fill a covered prescription at his or her option at any
13 participating community pharmacy or participating mail-order
14 pharmacy; provided that the participating community pharmacy
15 accepts reimbursement at a rate comparable to that of a
16 participating mail-order pharmacy.

17 B. An insurer shall not impose a copayment,
18 coinsurance or other condition on an insured who elects to fill
19 a covered prescription from a participating community pharmacy
20 that is not also imposed on an insured who elects to fill a
21 covered prescription at a participating mail-order pharmacy.

22 C. As used in this section:

23 (1) "covered prescription" means a drug or
24 device for which a group health plan has agreed to make
25 reimbursement under the terms of the policy, plan or

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1 certificate;

2 (2) "participating community pharmacy" means a
3 retail pharmacy:

4 (a) for which a majority of the
5 pharmacy's business in the state is not conducted as a mail-
6 order pharmacy; and

7 (b) that has agreed to accept an
8 insurer's contracted payment rate, and, pursuant to this
9 agreement, an insured may fill a prescription and pay a
10 copayment or coinsurance that is more advantageous to the
11 insured than the copayment or coinsurance for a prescription
12 sought from a retail pharmacy that has not agreed to the
13 insurer's contracted payment rate; and

14 (3) "participating mail-order pharmacy" means
15 a retail pharmacy:

16 (a) located in the United States;

17 (b) for which the majority of the
18 pharmacy's business consists of dispensing a prescription drug
19 or device under a prescription drug order and having the drug
20 or device delivered to a patient by the United States mail, a
21 common carrier or a delivery service. Mail-order pharmacies
22 include, but are not limited to, pharmacies that do business
23 via the internet or other electronic media; and

24 (c) that has agreed to accept an
25 insurer's contracted payment rate, and, pursuant to this

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1 agreement, an insured may fill a prescription and pay a
2 copayment or coinsurance that is more advantageous to the
3 insured than the copayment or coinsurance for a prescription
4 sought from a retail pharmacy that has not agreed to the
5 insurer's contracted payment rate."

6 SECTION 4. A new section of Chapter 59A, Article 23 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING
9 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

10 A. A group or blanket health insurance policy,
11 health care plan or certificate of health insurance that is
12 delivered, issued for delivery or renewed in this state and
13 that provides a prescription drug or device benefit shall
14 permit an insured to fill a covered prescription at his or her
15 option at any participating community pharmacy or participating
16 mail-order pharmacy; provided that the participating community
17 pharmacy accepts reimbursement at a rate comparable to that of
18 a participating mail-order pharmacy.

19 B. An insurer shall not impose a copayment,
20 coinsurance or other condition on an insured who elects to fill
21 a covered prescription from a participating community pharmacy
22 that is not also imposed on an insured who elects to fill a
23 covered prescription at a participating mail-order pharmacy.

24 C. As used in this section:

25 (1) "covered prescription" means a drug or

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1 device for which a group health plan has agreed to make
2 reimbursement under the terms of the group health plan;

3 (2) "participating community pharmacy" means a
4 retail pharmacy:

5 (a) for which a majority of the
6 pharmacy's business in the state is not conducted as a mail-
7 order pharmacy; and

8 (b) that has agreed to accept a
9 insurer's contracted payment rate, and, pursuant to this
10 agreement, an insured may fill a prescription and pay a
11 copayment or coinsurance that is more advantageous to the
12 insured than the copayment or coinsurance for a prescription
13 sought from a retail pharmacy that has not agreed to the
14 insurer's contracted payment rate; and

15 (3) "participating mail-order pharmacy" means
16 a retail pharmacy:

17 (a) located in the United States;

18 (b) for which the majority of the
19 pharmacy's business consists of dispensing a prescription drug
20 or device under a prescription drug order and having the drug
21 or device delivered to a patient by the United States mail, a
22 common carrier or a delivery service. Mail-order pharmacies
23 include, but are not limited to, pharmacies that do business
24 via the internet or other electronic media; and

25 (c) that has agreed to accept an

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1 insurer's contracted payment rate, and, pursuant to this
2 agreement, an insured may fill a prescription and pay a
3 copayment or coinsurance that is more advantageous to the
4 insured than the copayment or coinsurance for a prescription
5 sought from a retail pharmacy that has not agreed to the
6 insurer's contracted payment rate."

7 SECTION 5. A new section of the Health Maintenance
8 Organization Law is enacted to read:

9 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING
10 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

11 A. An individual or group health maintenance
12 organization contract that is delivered, issued for delivery or
13 renewed in this state and that provides a prescription drug or
14 device benefit shall permit an enrollee to fill a covered
15 prescription at his or her option at any participating
16 community pharmacy or participating mail-order pharmacy;
17 provided that the participating community pharmacy accepts
18 reimbursement at a rate comparable to that of a participating
19 mail-order pharmacy.

20 B. A health maintenance organization shall not
21 impose a copayment, coinsurance or other condition on an
22 enrollee who elects to fill a covered prescription from a
23 participating community pharmacy that is not also imposed on an
24 enrollee who elects to fill a covered prescription at a
25 participating mail-order pharmacy.

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C. As used in this section:

(1) "covered prescription" means a drug or device for which a group health plan has agreed to make reimbursement under the terms of the group health plan;

(2) "participating community pharmacy" means a retail pharmacy:

(a) for which a majority of the pharmacy's business in the state is not conducted as a mail-order pharmacy; and

(b) that has agreed to accept a health maintenance organization's contracted payment rate, and, pursuant to this agreement, an enrollee may fill a prescription and pay a copayment or coinsurance that is more advantageous to the enrollee than the copayment or coinsurance for a prescription sought from a retail pharmacy that has not agreed to the health maintenance organization's contracted payment rate; and

(3) "participating mail-order pharmacy" means a retail pharmacy:

(a) located in the United States;

(b) for which the majority of the pharmacy's business consists of dispensing a prescription drug or device under a prescription drug order and having the drug or device delivered to a patient by the United States mail, a common carrier or a delivery service. Mail-order pharmacies

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1 include, but are not limited to, pharmacies that do business
2 via the internet or other electronic media; and

3 (c) that has agreed to accept a health
4 maintenance organization's contracted payment rate, and,
5 pursuant to this agreement, an enrollee may fill a prescription
6 and pay a copayment or coinsurance that is more advantageous to
7 the enrollee than the copayment or coinsurance for a
8 prescription sought from a retail pharmacy that has not agreed
9 to the health maintenance organization's contracted payment
10 rate."

11 SECTION 6. A new section of the Nonprofit Health Care
12 Plan Law is enacted to read:

13 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING
14 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

15 A. An individual or group health care plan that is
16 delivered, issued for delivery or renewed in this state and
17 that provides a prescription drug or device benefit shall
18 permit a subscriber to fill a covered prescription at his or
19 her option at any participating community pharmacy or
20 participating mail-order pharmacy; provided that the
21 participating community pharmacy accepts reimbursement at a
22 rate comparable to that of a participating mail-order pharmacy.

23 B. A health care plan shall not impose a copayment,
24 coinsurance or other condition on a subscriber who elects to
25 fill a covered prescription from a participating community

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1 pharmacy that is not also imposed on a subscriber who elects to
2 fill a covered prescription at a participating mail-order
3 pharmacy.

4 C. As used in this section:

5 (1) "covered prescription" means a drug or
6 device for which a group health plan has agreed to make
7 reimbursement under the terms of the group health plan;

8 (2) "participating community pharmacy" means a
9 retail pharmacy:

10 (a) for which a majority of the
11 pharmacy's business in the state is not conducted as a mail-
12 order pharmacy; and

13 (b) that has agreed to accept a health
14 care plan's contracted payment rate, and, pursuant to this
15 agreement, a subscriber may fill a prescription and pay a
16 copayment or coinsurance that is more advantageous to the
17 subscriber than the copayment or coinsurance for a prescription
18 sought from a retail pharmacy that has not agreed to the health
19 care plan's contracted payment rate; and

20 (3) "participating mail-order pharmacy" means
21 a retail pharmacy:

22 (a) located in the United States;

23 (b) for which the majority of the
24 pharmacy's business consists of dispensing a prescription drug
25 or device under a prescription drug order and having the drug

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1 or device delivered to a subscriber by the United States mail,
2 a common carrier or a delivery service. Mail-order pharmacies
3 include, but are not limited to, pharmacies that do business
4 via the internet or other electronic media; and

5 (c) that has agreed to accept a health
6 care plan's contracted payment rate, and, pursuant to this
7 agreement, a subscriber may fill a prescription and pay a
8 copayment or coinsurance that is more advantageous to the
9 subscriber than the copayment or coinsurance for a prescription
10 sought from a retail pharmacy that has not agreed to the health
11 care plan's contracted payment rate."