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HOUSE BILL 285

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Micaela Lara Cadena

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING THE SHORT-TERM AND LIMITED-BENEFIT PLAN ACT TO ESTABLISH GUIDELINES RELATING TO SHORT-TERM AND LIMITED-BENEFITS HEALTH COVERAGE; ENACTING A NEW SECTION OF CHAPTER 59A, ARTICLE 16 NMSA 1978 TO BAN THE SALE AND ISSUANCE OF UNLICENSED AND UNAPPROVED HEALTH BENEFITS PLANS.

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

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Short-Term and Limited-Benefit Plan Act"."

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

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1 "[NEW MATERIAL] DEFINITIONS.--As used in the Short-Term
2 and Limited-Benefit Plan Act:

3 A. "bona fide association" means an association
4 that has been in existence for not less than five years and
5 that exists for purposes other than the business of insurance;

6 B. "excepted benefits" means benefits furnished
7 pursuant to the following:

8 (1) coverage-only accident or disability
9 income insurance;

10 (2) coverage issued as a supplement to
11 liability insurance;

12 (3) liability insurance;

13 (4) workers' compensation or similar
14 insurance;

15 (5) automobile medical payment insurance;

16 (6) credit-only insurance;

17 (7) coverage for on-site medical clinics;

18 (8) other similar insurance coverage specified
19 in office of superintendent of insurance rules, under which
20 benefits for medical care are secondary or incidental to other
21 benefits;

22 (9) the following benefits if offered
23 separately:

24 (a) limited-scope dental or vision
25 benefits;

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1 (b) benefits for long-term care, nursing
2 home care, home health care, community-based care or any
3 combination of those benefits; and

4 (c) other similar limited benefits
5 specified in office of superintendent of insurance rules;

6 (10) the following benefits, offered as
7 independent, non-coordinated benefits:

8 (a) coverage-only for a specified
9 disease or illness; or

10 (b) hospital indemnity or other fixed
11 indemnity insurance; and

12 (11) the following benefits if offered as a
13 separate insurance policy:

14 (a) medicare supplemental health
15 insurance as defined pursuant to Section 1882(g)(1) of the
16 federal Social Security Act; and

17 (b) coverage supplemental to the
18 coverage provided pursuant to Chapter 55 of Title 10 USCA and
19 similar supplemental coverage provided to coverage pursuant to
20 a group health plan;

21 C. "health benefits plan" means an individual or
22 group policy or agreement entered into, offered or issued by a
23 health insurance carrier to provide, deliver, arrange for, pay
24 for or reimburse any of the costs of health care services;

25 D. "health insurance carrier" means an entity

1 subject to the insurance laws and regulations of the state,
2 including a health insurance company, a health maintenance
3 organization, a hospital and health services corporation, a
4 provider service network, a nonprofit health care plan or any
5 other entity that contracts or offers to contract, or enters
6 into agreements to provide, deliver, arrange for, pay for or
7 reimburse any costs of health care services, or that provides,
8 offers or administers health benefits plans or managed health
9 care plans in the state;

10 E. "limited-benefit plan" means a health benefits
11 plan that provides excepted benefits other than:

- 12 (1) workers' compensation;
- 13 (2) credit-only;
- 14 (3) benefits for long-term care, nursing home
15 care, home health care, community-based care or any combination
16 of those benefits;
- 17 (4) medicare supplemental health insurance; or
- 18 (5) a short-term plan;

19 F. "major medical plan" means a health benefits
20 plan, including a short-term plan, that provides benefits other
21 than excepted benefits; and

22 G. "short-term plan" means a nonrenewable major
23 medical plan, regardless of where the plan is delivered, that:

- 24 (1) has a specified duration of not more than
25 three months after the effective date of the plan; and

1 (2) is issued only to individuals who have not
2 been enrolled in a health benefits plan that provides the same
3 or similar nonrenewable coverage from any health insurance
4 carrier within the three months preceding enrollment in the
5 short-term plan."

6 SECTION 3. A new section of the New Mexico Insurance Code
7 is enacted to read:

8 "[NEW MATERIAL] SHORT-TERM PLANS--LIMITED-BENEFIT PLANS--
9 STANDARDS FOR POLICY PROVISIONS.--

10 A. The superintendent shall adopt and promulgate
11 rules to establish specific standards:

12 (1) that set the manner, content and required
13 disclosure for the sale of short-term plans and limited-benefit
14 plans, including standards for full and fair disclosure; and

15 (2) for the sale of short-term plans and
16 limited-benefit plans, which standards shall include standards
17 relating to:

18 (a) terms of renewability or extension
19 of coverage;

20 (b) initial and subsequent conditions of
21 eligibility;

22 (c) nonduplication of coverage
23 provisions;

24 (d) coverage of dependents;

25 (e) preexisting conditions;

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- 1 (f) termination of insurance;
- 2 (g) probationary periods;
- 3 (h) limitations;
- 4 (i) exceptions;
- 5 (j) reductions and exclusions;
- 6 (k) elimination periods;
- 7 (l) requirements for replacement by the
- 8 health insurance carrier;
- 9 (m) recurrent conditions; and
- 10 (n) the definition of terms to describe

11 the specific types of coverage sold pursuant to the Short-Term
12 and Limited-Benefit Plan Act and specific standards and policy
13 provisions required of these plans.

14 B. All advertisements, marketing materials and
15 application and policy forms relating to short-term plans shall
16 prominently display a notice that the coverage is unavailable
17 to any potential insured who has been covered under a short-
18 term plan in the previous twelve-month period."

19 SECTION 4. A new section of the New Mexico Insurance Code
20 is enacted to read:

21 "[NEW MATERIAL] BENEFITS--MINIMUM STANDARDS--MEDICAL LOSS
22 RATIOS.--

23 A. The superintendent shall adopt and promulgate
24 rules to establish minimum standards for benefits under short-
25 term plans and limited-benefit plans subject to the Short-Term

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1 and Limited-Benefit Plan Act. The rules shall set minimum
2 standards for the following categories of coverage:

- 3 (1) hospital indemnity or other fixed
4 indemnity coverage;
- 5 (2) disability income protection coverage;
- 6 (3) accident-only coverage;
- 7 (4) short-term plan coverage;
- 8 (5) specified disease coverage;
- 9 (6) specified accident coverage;
- 10 (7) limited-scope vision coverage;
- 11 (8) limited-scope dental coverage; and
- 12 (9) other limited-benefit plan coverage as
13 authorized by the superintendent.

14 B. The superintendent shall adopt and promulgate
15 rules related to:

- 16 (1) the permissibility of combining the
17 products listed in Subsection A of this section for sale; and
- 18 (2) requirements for notice to consumers about
19 the comprehensiveness of coverage of combined products.

20 C. Rules of the superintendent shall require short-
21 term plans to cover state-mandated benefits in addition to each
22 of the following categories of benefits:

- 23 (1) diagnostic;
- 24 (2) rehabilitative;
- 25 (3) maternity;

- 1 (4) neonatal;
- 2 (5) behavioral health services;
- 3 (6) emergency services;
- 4 (7) hospitalization;
- 5 (8) ambulatory services; and
- 6 (9) prescription drugs.

7 D. After the first three years of a limited-benefit
8 plan's initial issuance, a health insurance carrier shall not
9 deliver or issue for delivery in the state a limited-benefit
10 plan that does not meet a minimum medical loss ratio by an
11 amount specified in rules of the office of superintendent of
12 insurance.

13 E. Short-term plans are subject to the following
14 provisions:

- 15 (1) Section 59A-22-50 NMSA 1978 for individual
16 short-term plans;
- 17 (2) Section 59A-23C-10 NMSA 1978 for small-
18 group short-term plans;
- 19 (3) Section 59A-46-51 NMSA 1978 for individual
20 or group short-term health maintenance organization contracts;
21 and
- 22 (4) Section 59A-47-46 NMSA 1978 for individual
23 or group short-term nonprofit health care plans."

24 SECTION 5. A new section of the New Mexico Insurance Code
25 is enacted to read:

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1 "[NEW MATERIAL] RATES.--The superintendent shall adopt and
2 promulgate rules to establish standards for rates of short-term
3 plans and limited-benefit plans."

4 SECTION 6. A new section of the New Mexico Insurance Code
5 is enacted to read:

6 "[NEW MATERIAL] DISCLOSURE REQUIREMENTS.--

7 A. A health insurance carrier shall deliver a
8 comprehensive outline of coverage to an applicant or enrollee
9 of a short-term plan or limited-benefit plan subject to the
10 provisions of the Short-Term and Limited-Benefit Plan Act
11 before the sale or issuance of the health benefits plan.

12 B. A health insurance carrier shall collect an
13 acknowledgment of receipt of the outline of coverage prior to
14 the sale or issuance of the short-term plan or limited-benefit
15 plan from the applicant or enrollee of a health benefits plan
16 subject to the Short-Term and Limited-Benefit Plan Act. The
17 health insurance carrier shall maintain evidence of the
18 delivery.

19 C. A health insurance carrier shall permit a health
20 benefits plan holder to cancel any limited-benefit plan for a
21 full refund of any premium payment within thirty days of the
22 health benefits plan's issuance unless the plan holder has
23 filed a claim.

24 D. A health insurance carrier shall not be required
25 to deliver an outline of coverage for a group limited-benefit

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1 plan, including group limited-scope vision and group limited-
2 scope dental coverage, to individual members of the group if
3 the certificate contains a description of:

- 4 (1) benefits;
- 5 (2) provisions that exclude, eliminate,
6 restrict, limit, delay or in any other manner operate to
7 qualify payment of benefits;
- 8 (3) conditions under which coverage may be
9 terminated;
- 10 (4) notice requirements; and
- 11 (5) any other information specified by the
12 superintendent.

13 E. The superintendent shall specify by rule the
14 format and content of the outline of coverage required by
15 Subsection A of this section. The outline of coverage shall
16 include a:

- 17 (1) statement identifying the applicable
18 category or categories of coverage as prescribed in Subsection
19 A of Section 4 of the Short-Term and Limited-Benefit Plan Act;
- 20 (2) description of the principal benefits and
21 coverage provided;
- 22 (3) statement of the exceptions, reductions
23 and limitations;
- 24 (4) statement of the renewal provisions,
25 including any reservation by the health insurance carrier or a

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1 right to change premiums; and

2 (5) statement that the outline is a summary of
3 the health benefits plan issued or applied for and that the
4 health benefits plan should be consulted to determine governing
5 plan provisions.

6 F. A health insurance carrier shall deliver to
7 persons eligible for medicare all notices required under state
8 and federal law.

9 G. A health insurance carrier shall prominently
10 display in application materials it provides in connection with
11 enrollment in short-term plans and limited-benefit plans a
12 notice stating that this health benefits plan may contain
13 limitations that do not comply with state or federal
14 requirements for comprehensive health benefits plans. The
15 superintendent shall specify the contents of the notice
16 required pursuant to this subsection by bulletin or rule.

17 H. As used in this section, "format" means style,
18 arrangement and overall appearance, including such items as the
19 size, color and prominence of type and the arrangement of text
20 and captions."

21 SECTION 7. A new section of the New Mexico Insurance Code
22 is enacted to read:

23 "[NEW MATERIAL] PROHIBITION--ASSOCIATION, TRUST OR
24 MULTIPLE EMPLOYER WELFARE ARRANGEMENT PLANS.--No insurer shall
25 issue, and no association, trust or multiple employer welfare

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1 arrangement shall offer, a short-term or limited-benefit plan
2 to a resident of the state unless through a bona fide
3 association."

4 SECTION 8. A new section of the New Mexico Insurance Code
5 is enacted to read:

6 "[NEW MATERIAL] MAJOR MEDICAL PLANS--MINIMUM DURATION.--A
7 major medical health benefit plan that is not a short-term plan
8 shall have a specified duration of at least twelve months."

9 SECTION 9. A new section of Chapter 59A, Article 16 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] HEALTH BENEFITS PLANS--PROHIBITION--
12 UNLICENSED HEALTH BENEFITS PLANS--UNAPPROVED HEALTH BENEFITS
13 PLANS.--

14 A. No person shall sell or issue a health benefits
15 plan that is unlicensed or unapproved for sale or delivery in
16 the state.

17 B. As used in this section:

18 (1) "health benefits plan" means a policy or
19 agreement entered into, offered or issued by a health insurance
20 carrier to provide, deliver, arrange for, pay for or reimburse
21 any of the costs of health care services; and

22 (2) "health insurance carrier" means an entity
23 subject to the insurance laws and regulations of this state,
24 including a health insurance company, a health maintenance
25 organization, a hospital and health services corporation, a

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1 provider service network, a nonprofit health care plan or any
2 other entity that contracts or offers to contract, or enters
3 into agreements to provide, deliver, arrange for, pay for or
4 reimburse any costs of health care services, or that provides,
5 offers or administers health benefits plans or managed health
6 care plans in this state."

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