

HOUSE BILL 292

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HEALTH CARE PLANS; ESTABLISHING LIMITS ON COST SHARING FOR CERTAIN PRESCRIPTION DRUGS; REQUIRING A REPORT RECOMMENDING ADDITIONAL DRUGS AND SERVICES FOR COST-SHARING LIMITATIONS; REQUIRING A STUDY OF THE COST OF PRESCRIPTION DRUGS FOR NEW MEXICO CONSUMERS AND MAKING RECOMMENDATIONS ON INCREASING ACCESSIBILITY OF PRESCRIPTION DRUGS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the Health Care Purchasing

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Act is enacted to read:

"[NEW MATERIAL] INSULIN FOR DIABETES--COST-SHARING CAP.--
Group health care coverage, including any form of self-
insurance, offered, issued or renewed under the Health Care
Purchasing Act shall cap the Hfl→total←Hfl amount an insured
is required to pay for Hfl→HSEIC→preferred formulary←HSEIC
←Hfl Hfl→prescription insulin drugs←Hfl Hfl→a preferred
formulary prescription insulin drug or a medically necessary
alternative ←Hfl Hfl→HSEIC→or medically necessary
alternatives←HSEIC←Hfl at an amount not to exceed a total of
Hfl→fifty dollars (\$50.00)←Hfl Hfl→twenty-five dollars
(\$25.00)←Hfl per thirty-day supply Hfl→."←Hfl Hfl→,
~~regardless of the amount, number of prescription drugs or types
of insulin prescribed to meet the covered person's insulin
health needs; provided that nothing in this section shall
prevent an insurer from reducing an insured's cost sharing by
an amount greater than the amount specified in this
section.~~"←Hfl

SECTION 2. Section 59A-22-41 NMSA 1978 (being Laws 1997,
Chapter 7, Section 1 and also Laws 1997, Chapter 255, Section
1) is amended to read:

"59A-22-41. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

A. Each individual and group health insurance
policy, health care plan, certificate of health insurance and
managed health care plan delivered or issued for delivery in

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this state shall provide coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care benefit and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as otherwise provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate, as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given policy. The Hfl→total←Hfl amount an individual with diabetes is required to pay for Hfl→HSEIC→preferred formulary←HSEIC←Hfl Hfl→prescription insulin drugs←Hfl Hfl→a preferred formulary prescription insulin drug or a medically necessary alternative ←Hfl Hfl→HSEIC→or medically necessary alternatives←HSEIC←Hfl is an amount not to exceed a total of Hfl→fifty dollars (\$50.00)←Hfl Hfl→twenty-five dollars (\$25.00)←Hfl per thirty-day supply Hfl→.←Hfl Hfl→, regardless of the amount, number of prescription drugs or types of insulin prescribed to meet the covered person's insulin health needs; provided that

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~~nothing in this subsection shall prevent an insurer from reducing an insured's cost sharing by an amount greater than the amount specified in this subsection.~~ ←Hf1

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of the legally blind;
- (7) syringes;
- (8) prescriptive oral agents for controlling blood sugar levels;
- (9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and

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treatment; and

(10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following basic health care benefits:

(1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:

(a) medically necessary visits upon the diagnosis of diabetes;

(b) visits following a physician diagnosis that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances, prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the food

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and drug administration, all individual or group health insurance policies as described in Subsection A of this section shall:

(1) maintain an adequate formulary to provide these resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drug, insulin or supplies described in this subsection within the limits of the health care plan, policy or certificate.

F. The provisions of Subsections A through E of this section shall be enforced by the superintendent.

G. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.

H. For purposes of this section:

(1) "basic health care benefits":

(a) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and

(b) does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment; and

(2) "managed health care plan" means a health

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benefit plan offered by a health care insurer that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan through its own employed health care providers or by contracting with selected or participating health care providers. A managed health care plan includes only those plans that provide comprehensive basic health care services to enrollees on a prepaid, capitated basis, including the following:

- (a) health maintenance organizations;
- (b) preferred provider organizations;
- (c) individual practice associations;
- (d) competitive medical plans;
- (e) exclusive provider organizations;
- (f) integrated delivery systems;
- (g) independent physician-provider organizations;
- (h) physician hospital-provider organizations; and
- (i) managed care services organizations."

SECTION 3. Section 59A-46-43 NMSA 1978 (being Laws 1997, Chapter 7, Section 3 and Laws 1997, Chapter 255, Section 3) is amended to read:

"59A-46-43. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

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A. Each individual and group health maintenance organization contract delivered or issued for delivery in this state shall provide coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care service and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same contract, as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given contract. The Hfl→total←Hfl amount an individual with diabetes is required to pay for Hfl→HSEIC→preferred formulary←HSEIC←Hfl Hfl→prescription insulin drugs←Hfl Hfl→a preferred formulary prescription insulin drug or a medically necessary alternative←Hfl Hfl→HSEIC→or medically necessary alternatives←HSEIC←Hfl is an amount not to exceed a total of Hfl→fifty dollars (\$50.00)←Hfl Hfl→twenty-five dollars (\$25.00)←Hfl per thirty-day supply Hfl→.←Hfl Hfl→, regardless of the amount, number of

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~~prescription drugs or types of insulin prescribed to meet the covered person's insulin health needs; provided that nothing in this subsection shall prevent an insurer from reducing an insured's cost sharing by an amount greater than the amount specified in this subsection.~~ ←Hf1

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled under an individual or group health maintenance organization contract shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of the legally blind;
- (7) syringes;
- (8) prescriptive oral agents for controlling blood sugar levels;
- (9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional

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orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and treatment; and

(10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled under an individual or group health maintenance contract shall be entitled to the following basic health care services:

(1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:

(a) medically necessary visits upon the diagnosis of diabetes;

(b) visits following a physician diagnosis that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances,

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prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the food and drug administration, each individual or group health maintenance organization contract shall:

(1) maintain an adequate formulary to provide these resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drug, insulin or supplies described in this subsection within the limits of the health care plan, policy or certificate.

F. The provisions of Subsections A through E of this section shall be enforced by the superintendent.

G. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies."

SECTION 4. TEMPORARY PROVISION--STUDY AND REPORT.--The superintendent of insurance shall convene an advisory group to include the secretary of human services, the secretary of health and the secretary of general services or their designees and the dean of the university of New Mexico college of pharmacy or the dean's designee to study the cost of prescription drugs for New Mexico consumers and make recommendations on increasing accessibility of prescription drugs. The report shall be submitted to the legislative health and human services committee and the legislative finance

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committee no later than October 1, 2020. The study shall examine, at a minimum, the benefits to New Mexico consumers and the potential costs of setting cost-sharing limitations for the following categories of drugs:

- A. inhaled prescription drugs used to control asthma;
- B. oral medications to treat or control diabetes;
- C. injectable epinephrine devices for severe allergic reactions;
- D. opioid reversal agents;
- E. medications used to treat hypertension;
- F. antidepressant medications;
- G. antipsychotic medications;
- H. lipid-lowering agents; and
- I. anticonvulsants.

SECTION 5. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 of this act is January 1, 2021.

B. The effective date of the provisions of Section 4 of this act is May 20, 2020.