SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING SECTIONS OF THE PUBLIC ASSISTANCE ACT, THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT, THE PHARMACY ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE CERTAIN PROCEDURES FOR REVIEW OF PRIOR AUTHORIZATIONS FOR PRESCRIPTION DRUG COVERAGE.

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

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"[NEW MATERIAL] MEDICAL ASSISTANCE--PRESCRIPTION DRUGS--PRIOR AUTHORIZATION REQUEST FORM--PRIOR AUTHORIZATION PROTOCOLS.--

A. Beginning January 1, 2013, the department shall require its medicaid contractors to accept the uniform prior

authorization form developed pursuant to Sections 2 and 3 of this 2012 act and provide that the uniform prior authorization form may be submitted electronically. The department shall require its medicaid contractors to accept the uniform prior authorization form as sufficient to request prior authorization for prescription drug benefits on behalf of recipients.

B. The department shall require its medicaid contractors to respond within two business days upon receipt of a uniform prior authorization form. The department shall require each of its medicaid contractors to deem a prior authorization as having been granted if the contractor has failed to respond to the prior authorization request within two days."

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

"[NEW MATERIAL] PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

A. On or before January 1, 2013, the division shall jointly develop with the board of pharmacy a uniform prior authorization form that, notwithstanding any other provision of law, a prescribing practitioner in the state shall use to request prior authorization for coverage of prescription drugs. The uniform prior authorization form shall:

(1) not exceed two pages;

(2) be made electronically available by the

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division and any health insurer, health care plan or health maintenance organization that uses the form;

(3) be developed with input received from interested parties pursuant to at least one public meeting; and

(4) take into consideration the following:

(a) any existing prior authorization forms that the federal centers for medicare and medicaid services or the human services department has developed; and

(b) any national standards pertaining to electronic prior authorization for prescription drugs.

B. As used in this section, "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

SECTION 3. A new section of the Pharmacy Act is enacted to read:

"[NEW MATERIAL] PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

A. On or before January 1, 2013, the board shall jointly develop with the insurance division of the public regulation commission a uniform prior authorization form that, notwithstanding any other provision of law, a prescribing practitioner in the state shall use to request prior authorization for coverage of prescription drugs. The uniform prior authorization form shall:

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(1) not exceed two pages;

(2) be made electronically available by the insurance division and any health insurer, plan or health maintenance organization that uses the form;

(3) be developed with input received from interested parties pursuant to at least one public meeting; and

(4) take into consideration the following:

(a) any existing prior authorization forms that the federal centers for medicare and medicaid services or the human services department has developed; and

(b) any national standards pertaining to electronic prior authorization for prescription drugs.

B. As used in this section, "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

SECTION 4. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

"[NEW MATERIAL] PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

A. After January 1, 2013, a prescribing practitioner seeking prior authorization from a health insurer may use the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2012 act and may electronically submit the form to a health insurer.

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B. As used in this section:

(1) "health insurer" means a health insurer; a nonprofit health service provider; a health maintenance organization; a managed care organization; or a provider service organization. "Health insurer" does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health insurer or its affiliated providers if the health insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs; and

(2) "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

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

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"[NEW MATERIAL] PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

A. After January 1, 2013, a health insurer shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2012 act, including a uniform prior authorization form that has been submitted electronically, as sufficient to request prior authorization for prescription drug benefits.

B. If a health insurer fails to use or accept the uniform prior authorization form or fails to respond within two business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

C. As used in this section, "health insurer":

(1) means:

(a) a health insurer;

(b) a nonprofit health service provider;

(c) a health maintenance organization;

(d) a managed care organization; or

(e) a provider service organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-

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only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health insurer or its affiliated providers if the health insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs."

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

"[NEW MATERIAL] PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

A. After January 1, 2013, an insurer shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2012 act, including a uniform prior authorization form that has been submitted electronically, as sufficient to request prior authorization for prescription drug benefits.

B. If an insurer fails to use or accept the uniform prior authorization form or fails to respond within two business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

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C. As used in this section, "insurer":

(1) means:

(a) an insurer;

(b) a nonprofit health service provider;

(c) a health maintenance organization;

(d) a managed care organization; or

(e) a provider service organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) an insurer or its affiliated providers, if the insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs."

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

"[NEW MATERIAL] PRESCRIPTION DRUG PRIOR AUTHORIZATION

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PROTOCOLS.--

A. After January 1, 2013, a health maintenance organization shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2012 act, including a uniform prior authorization form that has been submitted electronically, as sufficient to request prior authorization for prescription drug benefits.

B. If a health maintenance organization fails to use or accept the uniform prior authorization form or fails to respond within two business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

C. As used in this section, "health maintenance organization":

(1) means:

(a) a health maintenance organization; or

(b) a managed care organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

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(b) a physician or a physician group to which a health maintenance organization has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health maintenance organization or its affiliated providers if the health maintenance organization owns and operates its pharmacies and does not use a prior authorization process."

SECTION 8. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"[NEW MATERIAL] PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

A. After January 1, 2013, a health care plan shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2012 act, including a uniform prior authorization form that has been submitted electronically, as sufficient to request prior authorization for prescription drug benefits.

B. If a health care plan fails to use or accept the uniform prior authorization form or fails to respond within two business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

C. As used in this section, "health care plan" means a nonprofit corporation authorized by the superintendent

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to enter into contracts with subscribers and to make health care expense payments but does not include:

(1) a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

(2) a physician or a physician group to which a health care plan has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(3) a health care plan or its affiliated providers, if the health care plan owns and operates its pharmacies and does not use a prior authorization process."

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