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SENATE BILL 108

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

INTRODUCED BY

Timothy Z. Jennings

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE NOTICE TO ENROLLEES BEFORE RECLASSIFYING PRESCRIPTION DRUGS OR REMOVING PRESCRIPTION DRUGS FROM THE FORMULARY; PROVIDING FOR CONTINGENT APPLICABILITY.

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

SECTION 1. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING LIMITATIONS.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state and that

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 provides prescription drug benefits categorized or tiered for
2 purposes of cost-sharing through deductibles or co-insurance
3 obligations shall not, prior to the annual anniversary date of
4 the policy, plan or certificate:

5 (1) reclassify a drug to a higher tier of the
6 formulary;

7 (2) reclassify a drug from a preferred
8 classification to a non-preferred classification, unless that
9 reclassification results in the drug moving to a lower tier; or

10 (3) increase cost-sharing, copayment, deductible
11 or coinsurance charges for a drug.

12 B. When it is determined that a drug will be
13 reclassified or removed from the formulary, the administrator
14 for the policy, plan or certificate shall give the enrollee at
15 least sixty days' advance notice of the impending change.

16 C. The provisions of this section shall not apply
17 in the event that federal law requires the state to make
18 payments on behalf of enrollees to cover the difference in cost
19 between preferred drugs and non-preferred drugs."

20 SECTION 2. A new section of Chapter 59A, Article 23 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING
23 LIMITATIONS.--

24 A. An individual or group health insurance policy,
25 health care plan or certificate of health insurance that is

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underscored material = new
[bracketed material] = delete

1 delivered, issued for delivery or renewed in this state and
2 that provides prescription drug benefits categorized or tiered
3 for purposes of cost-sharing through deductibles or co-
4 insurance obligations shall not, prior to the annual
5 anniversary date of the policy, plan or certificate:

6 (1) reclassify a drug to a higher tier of the
7 formulary;

8 (2) reclassify a drug from a preferred
9 classification to a non-preferred classification, unless that
10 reclassification results in the drug moving to a lower tier; or

11 (3) increase cost-sharing, copayment, deductible
12 or coinsurance charges for a drug.

13 B. When it is determined that a drug will be
14 reclassified or removed from the formulary, the administrator
15 for the policy, plan or certificate shall give the enrollee at
16 least sixty days' advance notice of the impending change.

17 C. The provisions of this section shall not apply
18 in the event that federal law requires the state to make
19 payments on behalf of enrollees to cover the difference in cost
20 between preferred drugs and non-preferred drugs."

21 SECTION 3. A new section of the Health Maintenance
22 Organization Law is enacted to read:

23 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING
24 LIMITATIONS.--

25 A. An individual or group health insurance policy,

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underscoring material = new
[bracketed material] = delete

1 health care plan or certificate of health insurance that is
2 delivered, issued for delivery or renewed in this state and
3 that provides prescription drug benefits categorized or tiered
4 for purposes of cost-sharing through deductibles or co-
5 insurance obligations shall not, prior to the annual
6 anniversary date of the policy, plan or certificate:

7 (1) reclassify a drug to a higher tier of the
8 formulary;

9 (2) reclassify a drug from a preferred
10 classification to a non-preferred classification, unless that
11 reclassification results in the drug moving to a lower tier; or

12 (3) increase cost-sharing, copayment, deductible
13 or coinsurance charges for a drug.

14 B. When it is determined that a drug will be
15 reclassified, the administrator for the policy, plan or
16 certificate shall give the enrollee at least sixty days'
17 advance notice of the impending change.

18 C. The provisions of this section shall not apply
19 in the event that federal law requires the state to make
20 payments on behalf of enrollees to cover the difference in cost
21 between preferred drugs and non-preferred drugs."

22 SECTION 4. A new section of the Nonprofit Health Care
23 Plan Law is enacted to read:

24 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING
25 LIMITATIONS.--

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underscored material = new
[bracketed material] = delete

1 A. An individual or group health insurance policy,
2 health care plan or certificate of health insurance that is
3 delivered, issued for delivery or renewed in this state and
4 that provides prescription drug benefits categorized or tiered
5 for purposes of cost-sharing through deductibles or co-
6 insurance obligations shall not, prior to the annual
7 anniversary date of the policy, plan or certificate:

8 (1) reclassify a drug to a higher tier of the
9 formulary;

10 (2) reclassify a drug from a preferred
11 classification to a non-preferred classification, unless that
12 reclassification results in the drug moving to a lower tier; or

13 (3) increase cost-sharing, copayment, deductible
14 or coinsurance charges for a drug.

15 B. When it is determined that a drug will be
16 reclassified, the administrator for the policy, plan or
17 certificate shall give the enrollee at least sixty days'
18 advance notice of the impending change.

19 C. The provisions of this section shall not apply
20 in the event that federal law requires the state to make
21 payments on behalf of enrollees to cover the difference in cost
22 between preferred drugs and non-preferred drugs."