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

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[bracketed material] = delete

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

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

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

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

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

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

SECTION 2. A new section of Chapter 59A, Article 23 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

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[~~bracketed material~~] = delete

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

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

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

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

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

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

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

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

A. An individual or group health insurance policy,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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