

HOUSE HEALTH COMMITTEE SUBSTITUTE FOR
HOUSE BILL 273

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE ENROLLEES WITH PARITY OF ACCESS AND LIMIT COST-SHARING DIFFERENTIALS FOR CERTAIN DRUGS BETWEEN PARTICIPATING MAIL-ORDER PHARMACIES AND PARTICIPATING COMMUNITY PHARMACIES.

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

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] SPECIFIED PRESCRIPTION DRUGS-- PARTICIPATING PHARMACIES--ACCESS PARITY--COST-SHARING LIMITS.--

A. As of January 1, 2017, group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act, that offers a

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underscored material = new
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1 prescription drug or device benefit shall permit an enrollee to
2 fill a specified covered prescription at the enrollee's option
3 at any participating community pharmacy or participating mail-
4 order pharmacy; provided that the participating community
5 pharmacy accepts reimbursement at a rate equal to that of a
6 participating mail-order pharmacy.

7 B. When an enrollee fills a specified covered
8 prescription at a participating community pharmacy, a group
9 health plan shall not impose a copayment, coinsurance or other
10 cost-sharing condition at a rate that exceeds one hundred fifty
11 percent of any copayment, coinsurance or other cost-sharing
12 condition imposed on a specified covered prescription filled at
13 a participating mail-order pharmacy.

14 C. Nothing in this section shall prohibit a
15 manufacturer from placing a specialty drug in a limited
16 distributed network, including the use of one or more specialty
17 pharmacies.

18 D. As used in this section:

19 (1) "participating community pharmacy" means a
20 retail pharmacy:

21 (a) for which a majority of the
22 pharmacy's business in the state is not conducted as a mail-
23 order pharmacy; and

24 (b) that has agreed to accept a group
25 health plan's contracted payment rate, and, pursuant to this

1 agreement, an enrollee may fill a prescription and pay a
2 copayment or coinsurance that is more advantageous to the
3 enrollee than the copayment or coinsurance for a prescription
4 sought from a retail pharmacy that has not agreed to the group
5 health plan's contracted payment rate;

6 (2) "participating mail-order pharmacy" means
7 a retail pharmacy:

8 (a) located in the United States;

9 (b) for which the majority of the
10 pharmacy's business consists of dispensing a prescription drug
11 or device under a prescription drug order and having the drug
12 or device delivered to a patient by the United States mail, a
13 common carrier or a delivery service. Mail-order pharmacies
14 include, but are not limited to, pharmacies that do business
15 via the internet or other electronic media; and

16 (c) that has agreed to accept a group
17 health plan's contracted payment rate, and, pursuant to this
18 agreement, an enrollee may fill a prescription and pay a
19 copayment or coinsurance that is more advantageous to the
20 enrollee than the copayment or coinsurance for a prescription
21 sought from a retail pharmacy that has not agreed to the group
22 health plan's contracted payment rate;

23 (3) "specialty drug" means a drug that:

24 (a) is structurally complex;

25 (b) is used to treat a complex chronic

1 condition or a rare condition;

2 (c) requires special handling or a
3 special delivery mechanism;

4 (d) involves a significant degree of
5 patient education and monitoring to minimize adverse events;
6 and

7 (e) requires expert medical management
8 to optimize health outcomes; and

9 (4) "specified covered prescription" means a
10 drug, for which a group health plan has agreed to make
11 reimbursement under the terms of the group health plan, to
12 treat any of the following conditions:

13 (a) cancer;

14 (b) hepatitis A, B or C;

15 (c) human immunodeficiency virus;

16 (d) multiple sclerosis; or

17 (e) an autoimmune disorder."

18 SECTION 2. A new section of Chapter 59A, Article 22 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] SPECIFIED PRESCRIPTION DRUGS--
21 PARTICIPATING PHARMACIES--ACCESS PARITY--COST-SHARING LIMITS.--

22 A. As of January 1, 2017, an individual health
23 insurance policy, health care plan or certificate of health
24 insurance that is delivered, issued for delivery or renewed in
25 this state and that provides a prescription drug or device

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1 benefit shall permit an insured to fill a specified covered
2 prescription at the insured's option at any participating
3 community pharmacy or participating mail-order pharmacy;
4 provided that the participating community pharmacy accepts
5 reimbursement at a rate equal to that of a participating mail-
6 order pharmacy.

7 B. When an insured fills a specified covered
8 prescription at a participating community pharmacy, an insurer
9 shall not impose a copayment, coinsurance or other cost-sharing
10 condition at a rate that exceeds one hundred fifty percent of
11 any copayment, coinsurance or other cost-sharing condition
12 imposed on a specified covered prescription filled at a
13 participating mail-order pharmacy.

14 C. Nothing in this section shall prohibit a
15 manufacturer from placing a specialty drug in a limited
16 distributed network, including the use of one or more specialty
17 pharmacies.

18 D. As used in this section:

19 (1) "participating community pharmacy" means a
20 retail pharmacy:

21 (a) for which a majority of the
22 pharmacy's business in the state is not conducted as a mail-
23 order pharmacy; and

24 (b) that has agreed to accept an
25 insurer's contracted payment rate, and, pursuant to this

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1 agreement, an insured may fill a prescription and pay a
2 copayment or coinsurance that is more advantageous to the
3 insured than the copayment or coinsurance for a prescription
4 sought from a retail pharmacy that has not agreed to the
5 insurer's contracted payment rate;

6 (2) "participating mail-order pharmacy" means
7 a retail pharmacy:

8 (a) located in the United States;

9 (b) for which the majority of the
10 pharmacy's business consists of dispensing a prescription drug
11 or device under a prescription drug order and having the drug
12 or device delivered to a patient by the United States mail, a
13 common carrier or a delivery service. Mail-order pharmacies
14 include, but are not limited to, pharmacies that do business
15 via the internet or other electronic media; and

16 (c) that has agreed to accept an
17 insurer's contracted payment rate, and, pursuant to this
18 agreement, an insured may fill a prescription and pay a
19 copayment or coinsurance that is more advantageous to the
20 insured than the copayment or coinsurance for a prescription
21 sought from a retail pharmacy that has not agreed to the
22 insurer's contracted payment rate;

23 (3) "specialty drug" means a drug that:

24 (a) is structurally complex;

25 (b) is used to treat a complex chronic

1 condition or a rare condition;

2 (c) requires special handling or a
3 special delivery mechanism;

4 (d) involves a significant degree of
5 patient education and monitoring to minimize adverse events;
6 and

7 (e) requires expert medical management
8 to optimize health outcomes; and

9 (4) "specified covered prescription" means a
10 drug, for which an insurer has agreed to make reimbursement
11 under the terms of the individual policy, plan or certificate,
12 to treat any of the following conditions:

13 (a) cancer;

14 (b) hepatitis A, B or C;

15 (c) human immunodeficiency virus;

16 (d) multiple sclerosis; or

17 (e) an autoimmune disorder."

18 SECTION 3. A new section of Chapter 59A, Article 23 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] SPECIFIED PRESCRIPTION DRUGS--
21 PARTICIPATING PHARMACIES--ACCESS PARITY--COST-SHARING LIMIT.--

22 A. As of January 1, 2017, a group or blanket health
23 insurance policy, health care plan or certificate of health
24 insurance that is delivered, issued for delivery or renewed in
25 this state and that provides a prescription drug or device

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1 benefit shall permit an insured to fill a specified covered
2 prescription at the insured's option at any participating
3 community pharmacy or participating mail-order pharmacy;
4 provided that the participating community pharmacy accepts
5 reimbursement at a rate equal to that of a participating mail-
6 order pharmacy.

7 B. When an insured fills a specified covered
8 prescription at a participating community pharmacy, an insurer
9 shall not impose a copayment, coinsurance or other cost-sharing
10 condition at a rate that exceeds one hundred fifty percent of
11 any copayment, coinsurance or other cost-sharing condition
12 imposed on a specified covered prescription filled at a
13 participating mail-order pharmacy.

14 C. Nothing in this section shall prohibit a
15 manufacturer from placing a specialty drug in a limited
16 distributed network, including the use of one or more specialty
17 pharmacies.

18 D. As used in this section:

19 (1) "participating community pharmacy" means a
20 retail pharmacy:

21 (a) for which a majority of the
22 pharmacy's business in the state is not conducted as a mail-
23 order pharmacy; and

24 (b) that has agreed to accept a
25 insurer's contracted payment rate, and, pursuant to this

1 agreement, an insured may fill a prescription and pay a
2 copayment or coinsurance that is more advantageous to the
3 insured than the copayment or coinsurance for a prescription
4 sought from a retail pharmacy that has not agreed to the
5 insurer's contracted payment rate;

6 (2) "participating mail-order pharmacy" means
7 a retail pharmacy:

8 (a) located in the United States;

9 (b) for which the majority of the
10 pharmacy's business consists of dispensing a prescription drug
11 or device under a prescription drug order and having the drug
12 or device delivered to a patient by the United States mail, a
13 common carrier or a delivery service. Mail-order pharmacies
14 include, but are not limited to, pharmacies that do business
15 via the internet or other electronic media; and

16 (c) that has agreed to accept an
17 insurer's contracted payment rate, and, pursuant to this
18 agreement, an insured may fill a prescription and pay a
19 copayment or coinsurance that is more advantageous to the
20 insured than the copayment or coinsurance for a prescription
21 sought from a retail pharmacy that has not agreed to the
22 insurer's contracted payment rate;

23 (3) "specialty drug" means a drug that:

24 (a) is structurally complex;

25 (b) is used to treat a complex chronic

1 condition or a rare condition;

2 (c) requires special handling or a
3 special delivery mechanism;

4 (d) involves a significant degree of
5 patient education and monitoring to minimize adverse events;
6 and

7 (e) requires expert medical management
8 to optimize health outcomes; and

9 (4) "specified covered prescription" means a
10 drug, for which an insurer has agreed to make reimbursement
11 under the terms of a group or blanket policy, plan or
12 certificate, to treat any of the following conditions:

13 (a) cancer;

14 (b) hepatitis A, B or C;

15 (c) human immunodeficiency virus;

16 (d) multiple sclerosis; or

17 (e) an autoimmune disorder."

18 SECTION 4. A new section of the Health Maintenance
19 Organization Law is enacted to read:

20 "[NEW MATERIAL] SPECIFIED PRESCRIPTION DRUGS--
21 PARTICIPATING PHARMACIES--ACCESS PARITY--COST-SHARING LIMITS.--

22 A. As of January 1, 2017, an individual or group
23 health maintenance organization contract that is delivered,
24 issued for delivery or renewed in this state and that provides
25 a prescription drug or device benefit shall permit an enrollee

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1 to fill a specified covered prescription at the enrollee's
2 option at any participating community pharmacy or participating
3 mail-order pharmacy; provided that the participating community
4 pharmacy accepts reimbursement at a rate equal to that of a
5 participating mail-order pharmacy.

6 B. When an enrollee fills a specified covered
7 prescription at a participating community pharmacy, a health
8 maintenance organization shall not impose a copayment,
9 coinsurance or other cost-sharing condition at a rate that
10 exceeds one hundred fifty percent of any copayment, coinsurance
11 or other cost-sharing condition imposed on a specified covered
12 prescription filled at a participating mail-order pharmacy.

13 C. Nothing in this section shall prohibit a
14 manufacturer from placing a specialty drug in a limited
15 distributed network, including the use of one or more specialty
16 pharmacies.

17 D. As used in this section:

18 (1) "participating community pharmacy" means a
19 retail pharmacy:

20 (a) for which a majority of the
21 pharmacy's business in the state is not conducted as a mail-
22 order pharmacy; and

23 (b) that has agreed to accept a health
24 maintenance organization's contracted payment rate, and,
25 pursuant to this agreement, an enrollee may fill a prescription

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1 and pay a copayment or coinsurance that is more advantageous to
2 the enrollee than the copayment or coinsurance for a
3 prescription sought from a retail pharmacy that has not agreed
4 to the health maintenance organization's contracted payment
5 rate;

6 (2) "participating mail-order pharmacy" means
7 a retail pharmacy:

8 (a) located in the United States;

9 (b) for which the majority of the
10 pharmacy's business consists of dispensing a prescription drug
11 or device under a prescription drug order and having the drug
12 or device delivered to a patient by the United States mail, a
13 common carrier or a delivery service. Mail-order pharmacies
14 include, but are not limited to, pharmacies that do business
15 via the internet or other electronic media; and

16 (c) that has agreed to accept a health
17 maintenance organization's contracted payment rate, and,
18 pursuant to this agreement, an enrollee may fill a prescription
19 and pay a copayment or coinsurance that is more advantageous to
20 the enrollee than the copayment or coinsurance for a
21 prescription sought from a retail pharmacy that has not agreed
22 to the health maintenance organization's contracted payment
23 rate;

24 (3) "specialty drug" means a drug that:

25 (a) is structurally complex;

1 (b) is used to treat a complex chronic
2 condition or a rare condition;

3 (c) requires special handling or a
4 special delivery mechanism;

5 (d) involves a significant degree of
6 patient education and monitoring to minimize adverse events;
7 and

8 (e) requires expert medical management
9 to optimize health outcomes; and

10 (4) "specified covered prescription" means a
11 drug, for which a health maintenance organization has agreed to
12 make reimbursement under the terms of a contract, to treat any
13 of the following conditions:

14 (a) cancer;

15 (b) hepatitis A, B or C;

16 (c) human immunodeficiency virus;

17 (d) multiple sclerosis; or

18 (e) an autoimmune disorder."

19 SECTION 5. A new section of the Nonprofit Health Care
20 Plan Law is enacted to read:

21 "[NEW MATERIAL] SPECIFIED PRESCRIPTION DRUGS--
22 PARTICIPATING PHARMACIES--ACCESS PARITY--COST-SHARING LIMITS.--

23 A. An individual or group health care plan that is
24 delivered, issued for delivery or renewed in this state and
25 that provides a prescription drug or device benefit shall

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1 permit a subscriber to fill a specified covered prescription at
2 the subscriber's option at any participating community pharmacy
3 or participating mail-order pharmacy; provided that the
4 participating community pharmacy accepts reimbursement at a
5 rate equal to that of a participating mail-order pharmacy.

6 B. When a subscriber fills a specified covered
7 prescription at a participating community pharmacy, a health
8 care plan shall not impose a copayment, coinsurance or other
9 cost-sharing condition at a rate that exceeds one hundred fifty
10 percent of any copayment, coinsurance or other cost-sharing
11 condition imposed on a specified covered prescription filled at
12 a participating mail-order pharmacy.

13 C. Nothing in this section shall prohibit a
14 manufacturer from placing a specialty drug in a limited
15 distributed network, including the use of one or more specialty
16 pharmacies.

17 D. As used in this section:

18 (1) "participating community pharmacy" means a
19 retail pharmacy:

20 (a) for which a majority of the
21 pharmacy's business in the state is not conducted as a mail-
22 order pharmacy; and

23 (b) that has agreed to accept a health
24 care plan's contracted payment rate, and, pursuant to this
25 agreement, a subscriber may fill a prescription and pay a

1 copayment or coinsurance that is more advantageous to the
2 subscriber than the copayment or coinsurance for a prescription
3 sought from a retail pharmacy that has not agreed to the health
4 care plan's contracted payment rate;

5 (2) "participating mail-order pharmacy" means
6 a retail pharmacy:

7 (a) located in the United States;

8 (b) for which the majority of the
9 pharmacy's business consists of dispensing a prescription drug
10 or device under a prescription drug order and having the drug
11 or device delivered to a subscriber by the United States mail,
12 a common carrier or a delivery service. Mail-order pharmacies
13 include, but are not limited to, pharmacies that do business
14 via the internet or other electronic media; and

15 (c) that has agreed to accept a health
16 care plan's contracted payment rate, and, pursuant to this
17 agreement, a subscriber may fill a prescription and pay a
18 copayment or coinsurance that is more advantageous to the
19 subscriber than the copayment or coinsurance for a prescription
20 sought from a retail pharmacy that has not agreed to the health
21 care plan's contracted payment rate;

22 (3) "specialty drug" means a drug that:

23 (a) is structurally complex;

24 (b) is used to treat a complex chronic
25 condition or a rare condition;

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1 (c) requires special handling or a
2 special delivery mechanism;

3 (d) involves a significant degree of
4 patient education and monitoring to minimize adverse events;
5 and

6 (e) requires expert medical management
7 to optimize health outcomes; and

8 (4) "specified covered prescription" means a
9 drug, for which a health care plan has agreed to make
10 reimbursement under the terms of the health care plan, to treat
11 any of the following conditions:

- 12 (a) cancer;
- 13 (b) hepatitis A, B or C;
- 14 (c) human immunodeficiency virus;
- 15 (d) multiple sclerosis; or
- 16 (e) an autoimmune disorder."

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