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HOUSE BILL 292

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

INTRODUCED BY

Micaela Lara Cadena and Daniel A. Ivey-Soto

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 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 total amount an insured is

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1 required to pay for prescription insulin drugs at an amount not
2 to exceed a total of fifty dollars (\$50.00) per thirty-day
3 supply, regardless of the amount, number of prescription drugs
4 or types of insulin prescribed to meet the covered person's
5 insulin health needs; provided that nothing in this section
6 shall prevent an insurer from reducing an insured's cost
7 sharing by an amount greater than the amount specified in this
8 section."

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

12 "59A-22-41. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

13 A. Each individual and group health insurance
14 policy, health care plan, certificate of health insurance and
15 managed health care plan delivered or issued for delivery in
16 this state shall provide coverage for individuals with
17 insulin-using diabetes, with non-insulin-using diabetes and
18 with elevated blood glucose levels induced by pregnancy. This
19 coverage shall be a basic health care benefit and shall entitle
20 each individual to the medically accepted standard of medical
21 care for diabetes and benefits for diabetes treatment as well
22 as diabetes supplies, and this coverage shall not be reduced or
23 eliminated.

24 B. Except as otherwise provided in this subsection,
25 coverage for individuals with diabetes may be subject to

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1 deductibles and coinsurance consistent with those imposed on
2 other benefits under the same policy, plan or certificate, as
3 long as the annual deductibles or coinsurance for benefits are
4 no greater than the annual deductibles or coinsurance
5 established for similar benefits within a given policy. The
6 total amount an individual with diabetes is required to pay for
7 prescription insulin drugs is an amount not to exceed a total
8 of fifty dollars (\$50.00) per thirty-day supply, regardless of
9 the amount, number of prescription drugs or types of insulin
10 prescribed to meet the covered person's insulin health needs;
11 provided that nothing in this subsection shall prevent an
12 insurer from reducing an insured's cost sharing by an amount
13 greater than the amount specified in this subsection.

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

- 20 (1) blood glucose monitors, including those
21 for the legally blind;
- 22 (2) test strips for blood glucose monitors;
- 23 (3) visual reading urine and ketone strips;
- 24 (4) lancets and lancet devices;
- 25 (5) insulin;

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1 (6) injection aids, including those adaptable
2 to meet the needs of the legally blind;

3 (7) syringes;

4 (8) prescriptive oral agents for controlling
5 blood sugar levels;

6 (9) medically necessary podiatric appliances
7 for prevention of feet complications associated with diabetes,
8 including therapeutic molded or depth-inlay shoes, functional
9 orthotics, custom molded inserts, replacement inserts,
10 preventive devices and shoe modifications for prevention and
11 treatment; and

12 (10) glucagon emergency kits.

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

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

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

24 (b) visits following a physician
25 diagnosis that represents a significant change in the patient's

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1 symptoms or condition that warrants changes in the patient's
2 self-management; and

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

6 (2) medical nutrition therapy related to
7 diabetes management.

8 E. When new or improved equipment, appliances,
9 prescription drugs for the treatment of diabetes, insulin or
10 supplies for the treatment of diabetes are approved by the food
11 and drug administration, all individual or group health
12 insurance policies as described in Subsection A of this section
13 shall:

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

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

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

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

25 H. For purposes of this section:

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1 (1) "basic health care benefits":

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

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

10 (2) "managed health care plan" means a health
11 benefit plan offered by a health care insurer that provides for
12 the delivery of comprehensive basic health care services and
13 medically necessary services to individuals enrolled in the
14 plan through its own employed health care providers or by
15 contracting with selected or participating health care
16 providers. A managed health care plan includes only those
17 plans that provide comprehensive basic health care services to
18 enrollees on a prepaid, capitated basis, including the
19 following:

- 20 (a) health maintenance organizations;
21 (b) preferred provider organizations;
22 (c) individual practice associations;
23 (d) competitive medical plans;
24 (e) exclusive provider organizations;
25 (f) integrated delivery systems;

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- 1 (g) independent physician-provider
2 organizations;
3 (h) physician hospital-provider
4 organizations; and
5 (i) managed care services
6 organizations."

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

10 "59A-46-43. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

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

21 B. Except as provided in this subsection, coverage
22 for individuals with diabetes may be subject to deductibles and
23 coinsurance consistent with those imposed on other benefits
24 under the same contract, as long as the annual deductibles or
25 coinsurance for benefits are no greater than the annual

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1 deductibles or coinsurance established for similar benefits
2 within a given contract. The total amount an individual with
3 diabetes is required to pay for prescription insulin drugs is
4 an amount not to exceed a total of fifty dollars (\$50.00) per
5 thirty-day supply, regardless of the amount, number of
6 prescription drugs or types of insulin prescribed to meet the
7 covered person's insulin health needs; provided that nothing in
8 this subsection shall prevent an insurer from reducing an
9 insured's cost sharing by an amount greater than the amount
10 specified in this subsection.

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

- 17 (1) blood glucose monitors, including those
18 for the legally blind;
- 19 (2) test strips for blood glucose monitors;
- 20 (3) visual reading urine and ketone strips;
- 21 (4) lancets and lancet devices;
- 22 (5) insulin;
- 23 (6) injection aids, including those adaptable
24 to meet the needs of the legally blind;
- 25 (7) syringes;

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1 (8) prescriptive oral agents for controlling
2 blood sugar levels;

3 (9) medically necessary podiatric appliances
4 for prevention of feet complications associated with diabetes,
5 including therapeutic molded or depth-inlay shoes, functional
6 orthotics, custom molded inserts, replacement inserts,
7 preventive devices and shoe modifications for prevention and
8 treatment; and

9 (10) glucagon emergency kits.

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

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

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

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

25 (c) visits when re-education or

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1 refresher training is prescribed by a health care practitioner
2 with prescribing authority; and

3 (2) medical nutrition therapy related to
4 diabetes management.

5 E. When new or improved equipment, appliances,
6 prescription drugs for the treatment of diabetes, insulin or
7 supplies for the treatment of diabetes are approved by the food
8 and drug administration, each individual or group health
9 maintenance organization contract shall:

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

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

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

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

21 SECTION 4. TEMPORARY PROVISION--STUDY AND REPORT.--The
22 superintendent of insurance shall convene an advisory group to
23 include the secretary of human services, the secretary of
24 health and the secretary of general services or their designees
25 and the dean of the university of New Mexico college of

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1 pharmacy or the dean's designee to study the cost of
2 prescription drugs for New Mexico consumers and make
3 recommendations on increasing accessibility of prescription
4 drugs. The report shall be submitted to the legislative health
5 and human services committee and the legislative finance
6 committee no later than October 1, 2020. The study shall
7 examine, at a minimum, the benefits to New Mexico consumers and
8 the potential costs of setting cost-sharing limitations for the
9 following categories of drugs:

- 10 A. inhaled prescription drugs used to control
11 asthma;
- 12 B. oral medications to treat or control diabetes;
- 13 C. injectable epinephrine devices for severe
14 allergic reactions;
- 15 D. opioid reversal agents;
- 16 E. medications used to treat hypertension;
- 17 F. antidepressant medications;
- 18 G. antipsychotic medications;
- 19 H. lipid-lowering agents; and
- 20 I. anticonvulsants.

21 SECTION 5. EFFECTIVE DATE.--

- 22 A. The effective date of the provisions of Sections
23 1 through 3 of this act is January 1, 2021.
- 24 B. The effective date of the provisions of Section
25 4 of this act is May 20, 2020.

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