

1 AN ACT
2 RELATING TO VACCINATION; REQUIRING RULES FOR THE IMMUNIZATION
3 OF CHILDREN ATTENDING LICENSED CHILD CARE AND LICENSED EARLY
4 CHILDHOOD CARE PROGRAMS AND PUBLIC, PRIVATE, HOME OR
5 PAROCHIAL SCHOOLS TO BE BASED ON THE RECOMMENDATIONS OF THE
6 DEPARTMENT OF HEALTH OR THE AMERICAN ACADEMY OF PEDIATRICS;
7 REQUIRING THE DEPARTMENT OF HEALTH TO RECOMMEND IMMUNIZATIONS
8 FOR ADULTS BASED ON GUIDANCE FROM THE AMERICAN ACADEMY OF
9 FAMILY PHYSICIANS, THE AMERICAN COLLEGE OF OBSTETRICIANS AND
10 GYNECOLOGISTS, THE AMERICAN COLLEGE OF PHYSICIANS OR THE
11 DEPARTMENT OF HEALTH; REQUIRING VACCINES PURCHASED PURSUANT
12 TO THE STATEWIDE VACCINE PURCHASING PROGRAM TO BE RECOMMENDED
13 BY THE DEPARTMENT OF HEALTH; PROHIBITING CERTAIN HEALTH
14 INSURANCE PLANS FROM IMPOSING COST-SHARING REQUIREMENTS ON
15 IMMUNIZATIONS RECOMMENDED BY THE DEPARTMENT OF HEALTH;
16 REPEALING AND REENACTING SECTIONS OF THE NMSA 1978.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 24-5-1 NMSA 1978 (being Laws 1959,
20 Chapter 329, Section 1, as amended) is amended to read:

21 "24-5-1. IMMUNIZATION REGULATIONS.--

22 A. The public health division of the department of
23 health shall, after consultation with the public education
24 department and the early childhood education and care
25 department, promulgate rules governing the immunization

1 against diseases deemed to be dangerous to the public health,
2 to be required of children attending licensed child care and
3 licensed early childhood care programs and public, private,
4 home or parochial schools in the state. Rules promulgated
5 pursuant to this subsection shall establish the immunizations
6 required and the manner and frequency of their administration
7 in accordance with recommendations from the department of
8 health or the American academy of pediatrics. The public
9 health division shall supervise and secure the enforcement of
10 the required immunization program.

11 B. The public health division of the department of
12 health shall promulgate rules governing the immunization
13 against diseases deemed to be dangerous to the public health,
14 to be recommended for adults residing in the state. Rules
15 promulgated pursuant to this subsection shall establish the
16 immunizations recommended and the recommended manner and
17 frequency of their administration in accordance with guidance
18 from the American academy of family physicians, the American
19 college of obstetricians and gynecologists, the American
20 college of physicians or the department of health."

21 SECTION 2. Section 24-5-2 NMSA 1978 (being Laws 1959,
22 Chapter 329, Section 2, as amended) is amended to read:

23 "24-5-2. UNLAWFUL TO ENROLL IN SCHOOL OR LICENSED CHILD
24 CARE PROGRAMS UNIMMUNIZED--UNLAWFUL TO REFUSE TO PERMIT
25 IMMUNIZATION.--It is unlawful for any child to enroll in

1 school or a licensed child care or licensed early childhood
2 care program unless the child has been immunized as required
3 under the rules of the public health division of the
4 department of health and can provide satisfactory evidence of
5 such immunization; provided that, if the child produces
6 satisfactory evidence of having begun the process of
7 immunization, the child may enroll and attend school or the
8 child care program as long as the immunization process is
9 being accomplished in the prescribed manner. It is unlawful
10 for any parent to refuse or neglect to have the parent's
11 child immunized, as required by this section, unless the
12 child is properly exempted."

13 SECTION 3. Section 24-5A-1 NMSA 1978 (being Laws 2015,
14 Chapter 5, Section 1) is amended to read:

15 "24-5A-1. SHORT TITLE.--Chapter 24, Article 5A
16 NMSA 1978 may be cited as the "Vaccine Purchasing Act".

17 SECTION 4. Section 24-5A-2 NMSA 1978 (being Laws 2015,
18 Chapter 5, Section 2) is amended to read:

19 "24-5A-2. DEFINITIONS.--As used in the Vaccine
20 Purchasing Act:

- 21 A. "department" means the department of health;
- 22 B. "fund" means the vaccine purchasing fund;
- 23 C. "group health plan" means an employee welfare
24 benefit plan to the extent that the plan provides medical
25 care to employees or their dependents under the federal

1 Employee Retirement Income Security Act of 1974 directly or
2 through insurance, reimbursement or other means;

3 D. "health insurance coverage" means benefits
4 consisting of medical care provided directly or through
5 insurance or reimbursement or other means under any hospital
6 or medical service policy or certificate, hospital or medical
7 service plan contract or health maintenance organization
8 contract offered by a health insurance issuer;

9 E. "health insurer" means any entity subject to
10 regulation by the office of superintendent that:

11 (1) provides or is authorized to provide
12 health insurance or health benefit plans;

13 (2) administers health insurance or health
14 benefit coverage; or

15 (3) otherwise provides a plan of health
16 insurance or health benefits;

17 F. "insured child" means a child under the age of
18 nineteen who is eligible to receive health insurance coverage
19 from a health insurer or medical care pursuant to a group
20 health plan;

21 G. "office of superintendent" means the office of
22 superintendent of insurance;

23 H. "policy" means any contract of health insurance
24 between a health insurer and the insured and all clauses,
25 riders, endorsements and parts thereof;

1 I. "provider" means an individual or organization
2 licensed, certified or otherwise authorized or permitted by
3 law to provide vaccinations to insured children; and

4 J. "vaccines for children program" means the
5 federally funded program that provides vaccines at no cost to
6 eligible children pursuant to Section 1928 of the federal
7 Social Security Act."

8 SECTION 5. Section 24-5A-3 NMSA 1978 (being Laws 2015,
9 Chapter 5, Section 3) is amended to read:

10 "24-5A-3. STATEWIDE VACCINE PURCHASING PROGRAM.--

11 A. The department shall establish and administer a
12 statewide vaccine purchasing program to:

13 (1) expand access to childhood immunizations
14 recommended by the department pursuant to Section 24-5-1
15 NMSA 1978;

16 (2) maintain and improve immunization rates;

17 (3) facilitate the acquisition by providers
18 of vaccines for childhood immunizations recommended by the
19 department pursuant to Section 24-5-1 NMSA 1978; and

20 (4) leverage public and private funding and
21 resources for the purchase, storage and distribution of
22 vaccines for childhood immunizations recommended by the
23 department pursuant to Section 24-5-1 NMSA 1978.

24 B. The department shall:

25 (1) purchase vaccines for all children in

1 New Mexico, including children eligible for the vaccines for
2 children program and insured children;

3 (2) invoice each health insurer and group
4 health plan to reimburse the department for the cost of
5 vaccines provided directly or indirectly by the department to
6 such health insurer's or group health plan's insured
7 children;

8 (3) maintain a list of registered providers
9 who receive vaccines for insured children that are purchased
10 by the state and provide such list to each health insurer and
11 group health plan with every invoice;

12 (4) report the failure of a health insurer
13 to reimburse the department within thirty days of the date of
14 the invoice to the office of superintendent;

15 (5) report the failure of a health insurer
16 or group health plan to reimburse the department within
17 thirty days of the date of the invoice to the state
18 department of justice for collection; and

19 (6) credit all receipts collected from
20 health insurers and group health plans pursuant to the
21 Vaccine Purchasing Act to the fund.

22 C. No later than July 1, 2015 and July 1 of each
23 year thereafter, the department shall estimate the amount to
24 be expended annually by the department to purchase, store and
25 distribute vaccines recommended by the department pursuant to

1 Section 24-5-1 NMSA 1978 to all insured children in the
2 state, including a reserve of ten percent of the amount
3 estimated.

4 D. No later than September 1, 2015 and each
5 quarter thereafter, the department shall invoice each health
6 insurer and each group health plan for one-fourth of its
7 proportionate share of the estimated amount and reserve
8 pursuant to Subsection C of this section, calculated pursuant
9 to Subsection B of Section 24-5A-6 NMSA 1978.

10 E. The department may update its estimated amount
11 to be expended annually and its reserve to take into account
12 increases or decreases in the cost of vaccines or the costs
13 of additional vaccines that the department determines should
14 be included in the statewide vaccine purchasing program and
15 adjust the amount invoiced to each health insurer and group
16 health plan the following quarter."

17 SECTION 6. Section 24-5A-5 NMSA 1978 (being Laws 2015,
18 Chapter 5, Section 5) is amended to read:

19 "24-5A-5. AUTHORIZED USES OF THE VACCINE PURCHASING
20 FUND.--

21 A. The fund shall be used for the purchase,
22 storage and distribution of vaccines, as recommended by the
23 department pursuant to Section 24-5-1 NMSA 1978, for insured
24 children who are not eligible for the vaccines for children
25 program.

1 B. The department shall credit any balance
2 remaining in the fund at the end of the fiscal year toward
3 the department's purchase of vaccines the following year;
4 provided that the department maintains a reserve of ten
5 percent of the amount estimated to be expended in the
6 following year.

7 C. The fund shall not be used:

8 (1) for the purchase, storage and
9 distribution of vaccines for children who are eligible for
10 the vaccines for children program;

11 (2) for administrative expenses associated
12 with the statewide vaccine purchasing program; or

13 (3) to pass through a federally negotiated
14 discount pursuant to 42 U.S.C. 1396s."

15 SECTION 7. Section 59A-18-16.2 NMSA 1978 (being
16 Laws 2011, Chapter 144, Section 12, as amended) is amended to
17 read:

18 "59A-18-16.2. HEALTH INSURANCE OR HEALTH PLAN FORM AND
19 RATE FILINGS--SUPERINTENDENT--RULEMAKING--COMPLIANCE WITH
20 FEDERAL LAW.--

21 A. A small group health plan and a health
22 insurance issuer or multiple employer welfare arrangement
23 offering a small group or individual health insurance plan
24 that provides benefits other than excepted benefits shall:

25 (1) provide the essential health benefits

1 defined by the superintendent under Subsection B of this
2 section;

3 (2) limit cost sharing for such coverage in
4 accordance with Subsection D of this section; and

5 (3) provide coverage without cost sharing
6 for preventive benefits in accordance with Subsection E of
7 this section.

8 B. The superintendent shall define by rule the
9 essential health benefits package to include at least the
10 following general categories and the items and services
11 covered within the categories:

- 12 (1) ambulatory patient services;
13 (2) emergency services;
14 (3) hospitalization;
15 (4) maternity and newborn care;
16 (5) mental health and substance use disorder
17 services, including behavioral health treatment;
18 (6) prescription drugs;
19 (7) rehabilitative and habilitative services
20 and devices;
21 (8) laboratory services;
22 (9) preventive and wellness services and
23 chronic disease management; and
24 (10) pediatric services, including oral and
25 vision care.

1 C. In defining the essential health benefits
2 pursuant to Subsection B of this section, the superintendent
3 shall:

4 (1) ensure that such essential health
5 benefits reflect an appropriate balance among the categories
6 described in that subsection, so that benefits are not unduly
7 weighted toward any category;

8 (2) not make coverage decisions, determine
9 reimbursement rates, establish incentive programs or design
10 benefits in ways that discriminate against individuals
11 because of their age, disability or expected length of life;

12 (3) take into account the health care needs
13 of diverse segments of the population, including women,
14 children, persons with disabilities and other groups;

15 (4) ensure that health benefits established
16 as essential not be subject to denial to individuals against
17 their wishes on the basis of the individual's age or expected
18 length of life or of the individual's present or predicted
19 disability, degree of medical dependency or quality of life;

20 (5) provide that if a plan is offered
21 through the New Mexico health insurance exchange, another
22 health insurance plan offered through the New Mexico health
23 insurance exchange shall not fail to be treated as a
24 qualified health plan solely because the plan does not offer
25 coverage of benefits offered through the standalone plan that

1 are otherwise required; and

2 (6) periodically update the essential health
3 benefits under Subsection B of this section to address any
4 gaps in access to coverage or changes in the evidence base
5 identified by the superintendent.

6 D. A group health plan and a health insurance
7 issuer offering a group or individual health insurance plan
8 shall not establish a restricted lifetime or annual limit on
9 the dollar value of benefits for any participant or
10 beneficiary with respect to benefits that are essential
11 health benefits, as determined by the superintendent. The
12 provisions of this subsection shall not be construed to
13 prevent a group health plan or health insurance plan from
14 placing annual or lifetime per-beneficiary limits on specific
15 covered benefits that are not essential health benefits, to
16 the extent that these limits are otherwise permitted under
17 federal or state law.

18 E. The superintendent shall adopt and promulgate
19 rules specifying the maximum cost-sharing amounts for which
20 an insured may be held liable for payment of covered benefits
21 under any health insurance plan that provides benefits other
22 than excepted benefits, including deductibles, coinsurance,
23 copayments or similar charge, and any other expenditure
24 required of an insured individual with respect to essential
25 health benefits covered under the plan, but not including

1 premiums, balance billing amounts for non-network providers
2 or spending for non-covered services.

3 F. Any rules that the office of superintendent of
4 insurance intends to adopt and promulgate pursuant to this
5 section shall be adopted no later than the first day of
6 February of the year prior to the first plan year for which
7 the rules would be effective.

8 G. A group health plan and a health insurance
9 issuer offering a group or individual health insurance plan
10 that provides benefits other than excepted benefits shall
11 provide coverage for and shall not impose any cost-sharing
12 requirements for:

13 (1) items or services that have in effect a
14 rating of "A" or "B" in the current recommendations of the
15 United States preventive services task force;

16 (2) immunizations that have in effect a
17 recommendation from the department of health, with respect to
18 the insured for which immunization is considered;

19 (3) with respect to infants, children and
20 adolescents, preventive care and screenings provided for in
21 the comprehensive guidelines supported by the health
22 resources and services administration of the United States
23 department of health and human services; and

24 (4) with respect to women, additional
25 preventive care and screenings to those described in

1 Paragraph (1) of this subsection, as provided for in
2 comprehensive guidelines supported by the health resources
3 and services administration of the United States department
4 of health and human services.

5 H. The provisions of Subsection G of this section
6 shall not be construed to prohibit a health insurance plan or
7 health insurance issuer from providing coverage for services
8 in addition to those recommended by the United States
9 preventive services task force or to deny coverage for
10 services that are not described in this section. The
11 superintendent shall establish by rule a minimum interval
12 between the date on which a recommendation described in
13 Paragraphs (1) and (2) of Subsection G of this section or a
14 guideline under Paragraph (3) of Subsection G of this section
15 is issued and the plan year with respect to which the
16 requirement described in Subsection G of this section is
17 effective with respect to the service described in such
18 recommendation or guideline; provided that the interval shall
19 not be less than one year from the date the federal
20 recommendation or guideline is published.

21 I. If a health insurance plan is offered as a
22 qualified health plan through the New Mexico health insurance
23 exchange, the insurer offering the qualified health plan
24 shall also offer that plan through the health insurance
25 exchange as a plan that restricts enrollment to individuals

1 who, as of the beginning of a plan year, have not attained
2 the age of twenty-one years.

3 J. The superintendent shall adopt rules:

4 (1) to define terms used regarding forms,
5 rates, reviews and blocks of business that an insurer or
6 health care plan submits in filing matters;

7 (2) to govern any additional filing
8 requirements the superintendent deems appropriate;

9 (3) to provide notice of hearings and the
10 grounds on which the hearings have been requested;

11 (4) to meet criteria for review in
12 accordance with federal law; and

13 (5) that the superintendent deems
14 appropriate to carry out the provisions of Chapter 59A,
15 Article 18 NMSA 1978.

16 K. Except as provided by state or federal rule or
17 law, nothing in this section shall be construed to prohibit a
18 health insurance carrier from appropriately using reasonable
19 health care cost management techniques.

20 L. As used in this section, "excepted benefits"
21 means benefits furnished pursuant to the following:

22 (1) coverage-only accident or disability
23 income insurance;

24 (2) coverage issued as a supplement to
25 liability insurance;

1 (3) liability insurance;
2 (4) workers' compensation or similar
3 insurance;
4 (5) automobile medical payment insurance;
5 (6) credit-only insurance;
6 (7) coverage for on-site medical clinics;
7 (8) other similar insurance coverage
8 specified in regulations under which benefits for medical
9 care are secondary or incidental to other benefits;
10 (9) the following benefits if offered
11 separately:
12 (a) limited scope dental or vision
13 benefits;
14 (b) benefits for long-term care,
15 nursing home care, home health care, community-based care or
16 any combination of those benefits; and
17 (c) other similar limited benefits
18 specified in regulations;
19 (10) the following benefits, offered as
20 independent noncoordinated benefits:
21 (a) coverage only for a specified
22 disease or illness; or
23 (b) hospital indemnity or other fixed
24 indemnity insurance; and
25 (11) the following benefits if offered as a

1 separate insurance policy:

2 (a) medicare supplemental health
3 insurance as defined pursuant to Section 1882(g)(1) of the
4 federal Social Security Act; and

5 (b) coverage supplemental to the
6 coverage provided pursuant to Chapter 55 of Title 10 USCA and
7 similar supplemental coverage provided to coverage pursuant
8 to a group health plan."

9 SECTION 8. Section 24-5-1 NMSA 1978 (being Laws 1959,
10 Chapter 329, Section 1, as amended by Section 1 of this act)
11 is repealed and a new Section 24-5-1 NMSA 1978 is enacted to
12 read:

13 "24-5-1. IMMUNIZATION REGULATIONS.--The public health
14 division of the department of health shall, after
15 consultation with the public education department, promulgate
16 rules governing the immunization against diseases deemed to
17 be dangerous to the public health, to be required of children
18 attending public, private, home or parochial schools in the
19 state. The immunizations required and the manner and
20 frequency of their administration shall conform to
21 recommendations of the advisory committee on immunization
22 practices of the United States department of health and human
23 services and the American academy of pediatrics. The public
24 health division shall supervise and secure the enforcement of
25 the required immunization program."

1 SECTION 9. Section 24-5-2 NMSA 1978 (being Laws 1959,
2 Chapter 329, Section 2, as amended by Section 2 of this act)
3 is repealed and a new Section 24-5-2 NMSA 1978 is enacted to
4 read:

5 "24-5-2. UNLAWFUL TO ENROLL IN SCHOOL UNIMMUNIZED--
6 UNLAWFUL TO REFUSE TO PERMIT IMMUNIZATION.--It is unlawful
7 for any student to enroll in school unless the student has
8 been immunized as required under the rules of the public
9 health division of the department of health and can provide
10 satisfactory evidence of such immunization; provided that, if
11 the student produces satisfactory evidence of having begun
12 the process of immunization, the student may enroll and
13 attend school as long as the immunization process is being
14 accomplished in the prescribed manner. It is unlawful for
15 any parent to refuse or neglect to have the parent's child
16 immunized, as required by this section, unless the child is
17 properly exempted."

18 SECTION 10. Section 24-5A-2 NMSA 1978 (being Laws 2015,
19 Chapter 5, Section 2, as amended by Section 4 of this act) is
20 repealed and a new Section 24-5A-2 NMSA 1978 is enacted to
21 read:

22 "24-5A-2. DEFINITIONS.--As used in the Vaccine
23 Purchasing Act:

24 A. "advisory committee on immunization practices"
25 means the group of medical and public health experts that

1 develops recommendations on how to use vaccines to control
2 diseases in the United States, established under Section 222
3 of the federal Public Health Service Act;

4 B. "department" means the department of health;

5 C. "fund" means the vaccine purchasing fund;

6 D. "group health plan" means an employee welfare
7 benefit plan to the extent that the plan provides medical
8 care to employees or their dependents under the federal
9 Employee Retirement Income Security Act of 1974 directly or
10 through insurance, reimbursement or other means;

11 E. "health insurance coverage" means benefits
12 consisting of medical care provided directly or through
13 insurance or reimbursement or other means under any hospital
14 or medical service policy or certificate, hospital or medical
15 service plan contract or health maintenance organization
16 contract offered by a health insurance issuer;

17 F. "health insurer" means any entity subject to
18 regulation by the office of superintendent that:

19 (1) provides or is authorized to provide
20 health insurance or health benefit plans;

21 (2) administers health insurance or health
22 benefit coverage; or

23 (3) otherwise provides a plan of health
24 insurance or health benefits;

25 G. "insured child" means a child under the age of

1 nineteen who is eligible to receive health insurance coverage
2 from a health insurer or medical care pursuant to a group
3 health plan;

4 H. "office of superintendent" means the office of
5 superintendent of insurance;

6 I. "policy" means any contract of health insurance
7 between a health insurer and the insured and all clauses,
8 riders, endorsements and parts thereof;

9 J. "provider" means an individual or organization
10 licensed, certified or otherwise authorized or permitted by
11 law to provide vaccinations to insured children; and

12 K. "vaccines for children program" means the
13 federally funded program that provides vaccines at no cost to
14 eligible children pursuant to Section 1928 of the federal
15 Social Security Act."

16 SECTION 11. Section 24-5A-3 NMSA 1978 (being Laws 2015,
17 Chapter 5, Section 3, as amended by Section 5 of this act) is
18 repealed and a new Section 24-5A-3 NMSA 1978 is enacted to
19 read:

20 "24-5A-3. STATEWIDE VACCINE PURCHASING PROGRAM.--

21 A. The department shall establish and administer a
22 statewide vaccine purchasing program to:

23 (1) expand access to childhood immunizations
24 recommended by the advisory committee on immunization
25 practices;

1 (2) maintain and improve immunization rates;
2 (3) facilitate the acquisition by providers
3 of vaccines for childhood immunizations recommended by the
4 advisory committee on immunization practices; and
5 (4) leverage public and private funding and
6 resources for the purchase, storage and distribution of
7 vaccines for childhood immunizations recommended by the
8 advisory committee on immunization practices.

9 B. The department shall:

10 (1) purchase vaccines for all children in
11 New Mexico, including children eligible for the vaccines for
12 children program and insured children;

13 (2) invoice each health insurer and group
14 health plan to reimburse the department for the cost of
15 vaccines provided directly or indirectly by the department to
16 such health insurer's or group health plan's insured
17 children;

18 (3) maintain a list of registered providers
19 who receive vaccines for insured children that are purchased
20 by the state and provide such list to each health insurer and
21 group health plan with every invoice;

22 (4) report the failure of a health insurer
23 to reimburse the department within thirty days of the date of
24 the invoice to the office of superintendent;

25 (5) report the failure of a health insurer

1 or group health plan to reimburse the department within
2 thirty days of the date of the invoice to the state
3 department of justice for collection; and

4 (6) credit all receipts collected from
5 health insurers and group health plans pursuant to the
6 Vaccine Purchasing Act to the fund.

7 C. No later than July 1, 2015 and July 1 of each
8 year thereafter, the department shall estimate the amount to
9 be expended annually by the department to purchase, store and
10 distribute vaccines recommended by the advisory committee on
11 immunization practices to all insured children in the state,
12 including a reserve of ten percent of the amount estimated.

13 D. No later than September 1, 2015 and each
14 quarter thereafter, the department shall invoice each health
15 insurer and each group health plan for one-fourth of its
16 proportionate share of the estimated amount and reserve
17 pursuant to Subsection C of this section, calculated pursuant
18 to Subsection B of Section 24-5A-6 NMSA 1978.

19 E. The department may update its estimated amount
20 to be expended annually and its reserve to take into account
21 increases or decreases in the cost of vaccines or the costs
22 of additional vaccines that the department determines should
23 be included in the statewide vaccine purchasing program and
24 adjust the amount invoiced to each health insurer and group
25 health plan the following quarter."

1 SECTION 12. Section 24-5A-5 NMSA 1978 (being Laws 2015,
2 Chapter 5, Section 5, as amended by Section 6 of this act) is
3 repealed and a new Section 24-5A-5 NMSA 1978 is enacted to
4 read:

5 "24-5A-5. AUTHORIZED USES OF THE VACCINE PURCHASING
6 FUND.--

7 A. The fund shall be used for the purchase,
8 storage and distribution of vaccines, as recommended by the
9 advisory committee on immunization practices, for insured
10 children who are not eligible for the vaccines for children
11 program.

12 B. The department shall credit any balance
13 remaining in the fund at the end of the fiscal year toward
14 the department's purchase of vaccines the following year;
15 provided that the department maintains a reserve of ten
16 percent of the amount estimated to be expended in the
17 following year.

18 C. The fund shall not be used:

19 (1) for the purchase, storage and
20 distribution of vaccines for children who are eligible for
21 the vaccines for children program;

22 (2) for administrative expenses associated
23 with the statewide vaccine purchasing program; or

24 (3) to pass through a federally negotiated
25 discount pursuant to 42 U.S.C. 1396s."

1 SECTION 13. Section 59A-18-16.2 NMSA 1978 (being
2 Laws 2011, Chapter 144, Section 12, as amended by Section 7
3 of this act) is repealed and a new Section 59A-18-16.2
4 NMSA 1978 is enacted to read:

5 "59A-18-16.2. HEALTH INSURANCE OR HEALTH PLAN FORM AND
6 RATE FILINGS--SUPERINTENDENT--RULEMAKING--COMPLIANCE WITH
7 FEDERAL LAW.--

8 A. A small group health plan and a health
9 insurance issuer or multiple employer welfare arrangement
10 offering a small group or individual health insurance plan
11 that provides benefits other than excepted benefits shall:

12 (1) provide the essential health benefits
13 defined by the superintendent under Subsection B of this
14 section;

15 (2) limit cost sharing for such coverage in
16 accordance with Subsection D of this section; and

17 (3) provide coverage without cost sharing
18 for preventive benefits in accordance with Subsection E of
19 this section.

20 B. The superintendent shall define by rule the
21 essential health benefits package to include at least the
22 following general categories and the items and services
23 covered within the categories:

24 (1) ambulatory patient services;

25 (2) emergency services;

- (3) hospitalization;
- (4) maternity and newborn care;
- (5) mental health and substance use disorder services, including behavioral health treatment;
- (6) prescription drugs;
- (7) rehabilitative and habilitative services and devices;
- (8) laboratory services;
- (9) preventive and wellness services and chronic disease management; and
- (10) pediatric services, including oral and vision care.

C. In defining the essential health benefits pursuant to Subsection B of this section, the superintendent shall:

(1) ensure that such essential health benefits reflect an appropriate balance among the categories described in that subsection, so that benefits are not unduly weighted toward any category;

(2) not make coverage decisions, determine reimbursement rates, establish incentive programs or design benefits in ways that discriminate against individuals because of their age, disability or expected length of life;

(3) take into account the health care needs of diverse segments of the population, including women,

1 children, persons with disabilities and other groups;

2 (4) ensure that health benefits established
3 as essential not be subject to denial to individuals against
4 their wishes on the basis of the individual's age or expected
5 length of life or of the individual's present or predicted
6 disability, degree of medical dependency or quality of life;

7 (5) provide that if a plan is offered
8 through the New Mexico health insurance exchange, another
9 health insurance plan offered through the New Mexico health
10 insurance exchange shall not fail to be treated as a
11 qualified health plan solely because the plan does not offer
12 coverage of benefits offered through the standalone plan that
13 are otherwise required; and

14 (6) periodically update the essential health
15 benefits under Subsection B of this section to address any
16 gaps in access to coverage or changes in the evidence base
17 identified by the superintendent.

18 D. A group health plan and a health insurance
19 issuer offering a group or individual health insurance plan
20 shall not establish a restricted lifetime or annual limit on
21 the dollar value of benefits for any participant or
22 beneficiary with respect to benefits that are essential
23 health benefits, as determined by the superintendent. The
24 provisions of this subsection shall not be construed to
25 prevent a group health plan or health insurance plan from

1 placing annual or lifetime per-beneficiary limits on specific
2 covered benefits that are not essential health benefits, to
3 the extent that these limits are otherwise permitted under
4 federal or state law.

5 E. The superintendent shall adopt and promulgate
6 rules specifying the maximum cost-sharing amounts for which
7 an insured may be held liable for payment of covered benefits
8 under any health insurance plan that provides benefits other
9 than excepted benefits, including deductibles, coinsurance,
10 copayments or similar charge, and any other expenditure
11 required of an insured individual with respect to essential
12 health benefits covered under the plan, but not including
13 premiums, balance billing amounts for non-network providers
14 or spending for non-covered services.

15 F. Any rules that the office of superintendent of
16 insurance intends to adopt and promulgate pursuant to this
17 section shall be adopted no later than the first day of
18 February of the year prior to the first plan year for which
19 the rules would be effective.

20 G. A group health plan and a health insurance
21 issuer offering a group or individual health insurance plan
22 that provides benefits other than excepted benefits shall
23 provide coverage for and shall not impose any cost-sharing
24 requirements for:

25 (1) items or services that have in effect a

1 rating of "A" or "B" in the current recommendations of the
2 United States preventive services task force;

3 (2) immunizations that have in effect a
4 recommendation from the advisory committee on immunization
5 practices of the federal centers for disease control and
6 prevention, with respect to the insured for which
7 immunization is considered;

8 (3) with respect to infants, children and
9 adolescents, preventive care and screenings provided for in
10 the comprehensive guidelines supported by the health
11 resources and services administration of the United States
12 department of health and human services; and

13 (4) with respect to women, additional
14 preventive care and screenings to those described in
15 Paragraph (1) of this subsection, as provided for in
16 comprehensive guidelines supported by the health resources
17 and services administration of the United States department
18 of health and human services.

19 H. The provisions of Subsection G of this section
20 shall not be construed to prohibit a health insurance plan or
21 health insurance issuer from providing coverage for services
22 in addition to those recommended by the United States
23 preventive services task force or to deny coverage for
24 services that are not described in this section. The
25 superintendent shall establish by rule a minimum interval

1 between the date on which a recommendation described in
2 Paragraphs (1) and (2) of Subsection G of this section or a
3 guideline under Paragraph (3) of Subsection G of this section
4 is issued and the plan year with respect to which the
5 requirement described in Subsection G of this section is
6 effective with respect to the service described in such
7 recommendation or guideline; provided that the interval shall
8 not be less than one year from the date the federal
9 recommendation or guideline is published.

10 I. If a health insurance plan is offered as a
11 qualified health plan through the New Mexico health insurance
12 exchange, the insurer offering the qualified health plan
13 shall also offer that plan through the health insurance
14 exchange as a plan that restricts enrollment to individuals
15 who, as of the beginning of a plan year, have not attained
16 the age of twenty-one years.

17 J. The superintendent shall adopt rules:

18 (1) to define terms used regarding forms,
19 rates, reviews and blocks of business that an insurer or
20 health care plan submits in filing matters;

21 (2) to govern any additional filing
22 requirements the superintendent deems appropriate;

23 (3) to provide notice of hearings and the
24 grounds on which the hearings have been requested;

25 (4) to meet criteria for review in

1 accordance with federal law; and

2 (5) that the superintendent deems
3 appropriate to carry out the provisions of Chapter 59A,
4 Article 18 NMSA 1978.

5 K. Except as provided by state or federal rule or
6 law, nothing in this section shall be construed to prohibit a
7 health insurance carrier from appropriately using reasonable
8 health care cost management techniques.

9 L. As used in this section, "excepted benefits"
10 means benefits furnished pursuant to the following:

11 (1) coverage-only accident or disability
12 income insurance;

13 (2) coverage issued as a supplement to
14 liability insurance;

15 (3) liability insurance;

16 (4) workers' compensation or similar
17 insurance;

18 (5) automobile medical payment insurance;

19 (6) credit-only insurance;

20 (7) coverage for on-site medical clinics;

21 (8) other similar insurance coverage
22 specified in regulations under which benefits for medical
23 care are secondary or incidental to other benefits;

24 (9) the following benefits if offered
25 separately:

1 (a) limited scope dental or vision
2 benefits;

3 (b) benefits for long-term care,
4 nursing home care, home health care, community-based care or
5 any combination of those benefits; and

6 (c) other similar limited benefits
7 specified in regulations;

8 (10) the following benefits, offered as
9 independent noncoordinated benefits:

10 (a) coverage only for a specified
11 disease or illness; or

12 (b) hospital indemnity or other fixed
13 indemnity insurance; and

14 (11) the following benefits if offered as a
15 separate insurance policy:

16 (a) medicare supplemental health
17 insurance as defined pursuant to Section 1882(g)(1) of the
18 federal Social Security Act; and

19 (b) coverage supplemental to the
20 coverage provided pursuant to Chapter 55 of Title 10 USCA and
21 similar supplemental coverage provided to coverage pursuant
22 to a group health plan."

23 SECTION 14. DELAYED EFFECTIVE DATE.--The provisions
24 of Sections 8 through 13 of this act are effective
25 July 1, 2026.