

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING SECTIONS OF THE PUBLIC ASSISTANCE ACT, THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT, THE PHARMACY ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE CERTAIN PROCEDURES FOR REVIEW OF PRIOR AUTHORIZATIONS FOR PRESCRIPTION DRUG COVERAGE.

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

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--PRESCRIPTION DRUGS--PRIOR AUTHORIZATION REQUEST FORM--PRIOR AUTHORIZATION PROTOCOLS.--

A. Beginning January 1, 2014, the department shall require its medicaid contractors to accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act. The department shall require its medicaid contractors to accept the uniform prior authorization form as sufficient to request prior authorization for prescription drug benefits on behalf of recipients.

B. The department shall require its medicaid contractors to respond within three business days upon receipt of a uniform prior authorization form. The department shall require each of its medicaid contractors to deem a prior authorization as having been granted if the

1 contractor has failed to respond to the prior authorization  
2 request within three business days."

3 SECTION 2. A new section of the New Mexico Insurance  
4 Code is enacted to read:

5 "PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

6 A. On or before January 1, 2014, the division  
7 shall jointly develop with the board of pharmacy a uniform  
8 prior authorization form that, notwithstanding any other  
9 provision of law, a prescribing practitioner in the state  
10 shall use to request prior authorization for coverage of  
11 prescription drugs. The uniform prior authorization form  
12 shall:

13 (1) not exceed two pages;

14 (2) be made electronically available on the  
15 web site of the division and on the web site of each health  
16 insurer, health care plan or health maintenance organization  
17 that uses the form;

18 (3) be developed with input received from  
19 interested parties pursuant to at least one public meeting;  
20 and

21 (4) take into consideration the following:

22 (a) any existing prior authorization  
23 forms that the federal centers for medicare and medicaid  
24 services or the human services department has developed; and

25 (b) any national standards pertaining

1 to electronic prior authorization for prescription drugs.

2 B. As used in this section, "prescribing  
3 practitioner" means a person that is licensed or certified to  
4 prescribe and administer drugs that are subject to the New  
5 Mexico Drug, Device and Cosmetic Act."

6 SECTION 3. A new section of the Pharmacy Act is enacted  
7 to read:

8 "PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

9 A. On or before January 1, 2014, the board shall  
10 jointly develop with the insurance division of the public  
11 regulation commission a uniform prior authorization form  
12 that, notwithstanding any other provision of law, a  
13 prescribing practitioner in the state shall use to request  
14 prior authorization for coverage of prescription drugs. The  
15 uniform prior authorization form shall:

16 (1) not exceed two pages;

17 (2) be made electronically available on the  
18 web site of the insurance division and on the web site of  
19 each health insurer, plan or health maintenance organization  
20 that uses the form;

21 (3) be developed with input received from  
22 interested parties pursuant to at least one public meeting;  
23 and

24 (4) take into consideration the following:

25 (a) any existing prior authorization

1 forms that the federal centers for medicare and medicaid  
2 services or the human services department has developed; and

3 (b) any national standards pertaining  
4 to electronic prior authorization for prescription drugs.

5 B. As used in this section, "prescribing  
6 practitioner" means a person that is licensed or certified to  
7 prescribe and administer drugs that are subject to the New  
8 Mexico Drug, Device and Cosmetic Act."

9 SECTION 4. A new section of the New Mexico Drug, Device  
10 and Cosmetic Act is enacted to read:

11 "PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

12 A. After January 1, 2014, a prescribing  
13 practitioner seeking prior authorization from a health  
14 insurer may use the uniform prior authorization form  
15 developed pursuant to Sections 2 and 3 of this 2013 act.

16 B. As used in this section:

17 (1) "health insurer" means a health insurer;  
18 a nonprofit health service provider; a health maintenance  
19 organization; a managed care organization; or a provider  
20 service organization. "Health insurer" does not include:

21 (a) a person that delivers, issues for  
22 delivery or renews an individual policy intended to  
23 supplement major medical group-type coverages such as  
24 medicare supplement, long-term care, disability income,  
25 specified disease, accident-only, hospital indemnity or other

1 limited-benefit health insurance policy;

2 (b) a physician or a physician group to  
3 which a health insurer has delegated financial risk for  
4 prescription drugs and that does not use a prior  
5 authorization process for prescription drugs; or

6 (c) a health insurer or its affiliated  
7 providers if the health insurer owns and operates its  
8 pharmacies and does not use a prior authorization process for  
9 prescription drugs; and

10 (2) "prescribing practitioner" means a  
11 person that is licensed or certified to prescribe and  
12 administer drugs that are subject to the New Mexico Drug,  
13 Device and Cosmetic Act."

14 SECTION 5. A new section of Chapter 59A, Article 22  
15 NMSA 1978 is enacted to read:

16 "PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

17 A. After January 1, 2014, a health insurer shall  
18 accept the uniform prior authorization form developed  
19 pursuant to Sections 2 and 3 of this 2013 act as sufficient  
20 to request prior authorization for prescription drug  
21 benefits.

22 B. No later than twenty-four months after the  
23 adoption of national standards for electronic prior  
24 authorization, a health insurer shall exchange prior  
25 authorization requests with providers who have e-prescribing

1 capability.

2 C. If a health insurer fails to use or accept the  
3 uniform prior authorization form or fails to respond within  
4 three business days upon receipt of a uniform prior  
5 authorization form, the prior authorization request shall be  
6 deemed to have been granted.

7 D. As used in this section, "health insurer":

8 (1) means:

9 (a) a health insurer;

10 (b) a nonprofit health service  
11 provider;

12 (c) a health maintenance organization;

13 (d) a managed care organization; or

14 (e) a provider service organization;

15 and

16 (2) does not include:

17 (a) a person that delivers, issues for  
18 delivery or renews an individual policy intended to  
19 supplement major medical group-type coverages such as  
20 medicare supplement, long-term care, disability income,  
21 specified disease, accident-only, hospital indemnity or other  
22 limited-benefit health insurance policy;

23 (b) a physician or a physician group to  
24 which a health insurer has delegated financial risk for  
25 prescription drugs and that does not use a prior

1 authorization process for prescription drugs; or

2 (c) a health insurer or its affiliated  
3 providers if the health insurer owns and operates its  
4 pharmacies and does not use a prior authorization process for  
5 prescription drugs."

6 SECTION 6. A new section of Chapter 59A, Article 23  
7 NMSA 1978 is enacted to read:

8 "PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

9 A. After January 1, 2014, an insurer shall accept  
10 the uniform prior authorization form developed pursuant to  
11 Sections 2 and 3 of this 2013 act as sufficient to request  
12 prior authorization for prescription drug benefits.

13 B. No later than twenty-four months after the  
14 adoption of national standards for electronic prior  
15 authorization, a health insurer shall exchange prior  
16 authorization requests with providers who have e-prescribing  
17 capability.

18 C. If an insurer fails to use or accept the  
19 uniform prior authorization form or fails to respond within  
20 three business days upon receipt of a uniform prior  
21 authorization form, the prior authorization request shall be  
22 deemed to have been granted.

23 D. As used in this section, "insurer":

24 (1) means:

25 (a) an insurer;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(b) a nonprofit health service provider;

(c) a health maintenance organization;

(d) a managed care organization; or

(e) a provider service organization;

and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) an insurer or its affiliated providers, if the insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs."

SECTION 7. A new section of the Health Maintenance Organization Law is enacted to read:

"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

A. After January 1, 2014, a health maintenance



1 organization shall accept the uniform prior authorization  
2 form developed pursuant to Sections 2 and 3 of this 2013 act  
3 as sufficient to request prior authorization for prescription  
4 drug benefits.

5 B. No later than twenty-four months after the  
6 adoption of national standards for electronic prior  
7 authorization, a health insurer shall exchange prior  
8 authorization requests with providers who have e-prescribing  
9 capability.

10 C. If a health maintenance organization fails to  
11 use or accept the uniform prior authorization form or fails  
12 to respond within three business days upon receipt of a  
13 uniform prior authorization form, the prior authorization  
14 request shall be deemed to have been granted.

15 D. As used in this section, "health maintenance  
16 organization":

17 (1) means:

18 (a) a health maintenance organization;

19 or

20 (b) a managed care organization; and

21 (2) does not include:

22 (a) a person that delivers, issues for  
23 delivery or renews an individual policy intended to  
24 supplement major medical group-type coverages such as  
25 medicare supplement, long-term care, disability income,

1 specified disease, accident-only, hospital indemnity or other  
2 limited-benefit health insurance policy;

3 (b) a physician or a physician group to  
4 which a health maintenance organization has delegated  
5 financial risk for prescription drugs and that does not use a  
6 prior authorization process for prescription drugs; or

7 (c) a health maintenance organization  
8 or its affiliated providers if the health maintenance  
9 organization owns and operates its pharmacies and does not  
10 use a prior authorization process."

11 SECTION 8. A new section of the Nonprofit Health Care  
12 Plan Law is enacted to read:

13 "PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--

14 A. After January 1, 2014, a health care plan shall  
15 accept the uniform prior authorization form developed  
16 pursuant to Sections 2 and 3 of this 2013 act as sufficient  
17 to request prior authorization for prescription drug  
18 benefits.

19 B. No later than twenty-four months after the  
20 adoption of national standards for electronic prior  
21 authorization, a health insurer shall exchange prior  
22 authorization requests with providers who have e-prescribing  
23 capability.

24 C. If a health care plan fails to use or accept  
25 the uniform prior authorization form or fails to respond

1 within three business days upon receipt of a uniform prior  
2 authorization form, the prior authorization request shall be  
3 deemed to have been granted.

4 D. As used in this section, "health care plan"  
5 means a nonprofit corporation authorized by the  
6 superintendent to enter into contracts with subscribers and  
7 to make health care expense payments but does not include:

8 (1) a person that only issues a  
9 limited-benefit policy intended to supplement major medical  
10 coverage, including medicare supplement, vision, dental,  
11 disease-specific, accident-only or hospital indemnity-only  
12 insurance policies, or that only issues policies for  
13 long-term care or disability income;

14 (2) a physician or a physician group to  
15 which a health care plan has delegated financial risk for  
16 prescription drugs and that does not use a prior  
17 authorization process for prescription drugs; or

18 (3) a health care plan or its affiliated  
19 providers, if the health care plan owns and operates its  
20 pharmacies and does not use a prior authorization process."