HOUSE BILL 292

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

INTRODUCED BY

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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 .216730.2GLG
required to pay for prescription insulin drugs at an amount not to exceed a total of fifty dollars ($50.00) per thirty-day supply, regardless of the amount, number of prescription drugs or types of insulin prescribed to meet the covered person's insulin health needs; provided that nothing in this section shall prevent an insurer from reducing an insured's cost sharing by an amount greater than the amount specified in this section."

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

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

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

B. Except as otherwise provided in this subsection, coverage for individuals with diabetes may be subject to
deductibles and coinsurance consistent with those imposed on
other benefits under the same policy, plan or certificate, as
long as the annual deductibles or coinsurance for benefits are
no greater than the annual deductibles or coinsurance
established for similar benefits within a given policy. The
total amount an individual with diabetes is required to pay for
prescription insulin drugs is an amount not to exceed a total
of fifty dollars ($50.00) per thirty-day supply, regardless of
the amount, number of prescription drugs or types of insulin
prescribed to meet the covered person's insulin health needs;
provided that nothing in this subsection shall prevent an
insurer from reducing an insured's cost sharing by an amount
greater than the amount specified in this subsection.

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

1. blood glucose monitors, including those
   for the legally blind;
2. test strips for blood glucose monitors;
3. visual reading urine and ketone strips;
4. lancets and lancet devices;
5. insulin;
(6) injection aids, including those adaptable to meet the needs of the legally blind;

(7) syringes;

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

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

(10) glucagon emergency kits.

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

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

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

(b) visits following a physician diagnosis that represents a significant change in the patient's
symptoms or condition that warrants changes in the patient's
self-management; and
(c) visits when re-education or
refresher training is prescribed by a health care practitioner
with prescribing authority; and
(2) medical nutrition therapy related to
diabetes management.

E. When new or improved equipment, appliances,
prescription drugs for the treatment of diabetes, insulin or
supplies for the treatment of diabetes are approved by the food
and drug administration, all individual or group health
insurance policies as described in Subsection A of this section
shall:
(1) maintain an adequate formulary to provide
these resources to individuals with diabetes; and
(2) guarantee reimbursement or coverage for
the equipment, appliances, prescription drug, insulin or
supplies described in this subsection within the limits of the
health care plan, policy or certificate.

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

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

H. For purposes of this section:
(1) "basic health care benefits":
(a) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and
(b) does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment; and

(2) "managed health care plan" means a health benefit plan offered by a health care insurer that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan through its own employed health care providers or by contracting with selected or participating health care providers. A managed health care plan includes only those plans that provide comprehensive basic health care services to enrollees on a prepaid, capitated basis, including the following:
(a) health maintenance organizations;
(b) preferred provider organizations;
(c) individual practice associations;
(d) competitive medical plans;
(e) exclusive provider organizations;
(f) integrated delivery systems;
(g) independent physician-provider organizations;

(h) physician hospital-provider organizations; and

(i) managed care services organizations."

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

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

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

B. Except as provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same contract, as long as the annual deductibles or coinsurance for benefits are no greater than the annual .216730.2GLG
deductibles or coinsurance established for similar benefits within a given contract. The total amount an individual with diabetes is required to pay for prescription insulin drugs is an amount not to exceed a total of fifty dollars ($50.00) per thirty-day supply, regardless of the amount, number of prescription drugs or types of insulin prescribed to meet the covered person's insulin health needs; provided that nothing in this subsection shall prevent an insurer from reducing an insured's cost sharing by an amount greater than the amount specified in this subsection.

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

(1) blood glucose monitors, including those for the legally blind;

(2) test strips for blood glucose monitors;

(3) visual reading urine and ketone strips;

(4) lancets and lancet devices;

(5) insulin;

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

(7) syringes;
(8) prescriptive oral agents for controlling blood sugar levels;

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

(10) glucagon emergency kits.

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

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

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

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

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

(2) medical nutrition therapy related to diabetes management.

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

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

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

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

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

SECTION 4. TEMPORARY PROVISION--STUDY AND REPORT.--The superintendent of insurance shall convene an advisory group to include the secretary of human services, the secretary of health and the secretary of general services or their designees and the dean of the university of New Mexico college of
pharmacy or the dean's designee to study the cost of
prescription drugs for New Mexico consumers and make
recommendations on increasing accessibility of prescription
drugs. The report shall be submitted to the legislative health
and human services committee and the legislative finance
committee no later than October 1, 2020. The study shall
examine, at a minimum, the benefits to New Mexico consumers and
the potential costs of setting cost-sharing limitations for the
following categories of drugs:

A. inhaled prescription drugs used to control
asthma;
B. oral medications to treat or control diabetes;
C. injectable epinephrine devices for severe
allergic reactions;
D. opioid reversal agents;
E. medications used to treat hypertension;
F. antidepressant medications;
G. antipsychotic medications;
H. lipid-lowering agents; and
I. anticonvulsants.

SECTION 5. EFFECTIVE DATE.--
A. The effective date of the provisions of Sections
1 through 3 of this act is January 1, 2021.
B. The effective date of the provisions of Section
4 of this act is May 20, 2020.