

1 AN ACT

2 RELATING TO HEALTH CARE PLANS; ESTABLISHING LIMITS ON COST  
3 SHARING FOR CERTAIN PRESCRIPTION DRUGS; REQUIRING A REPORT  
4 RECOMMENDING ADDITIONAL DRUGS AND SERVICES FOR COST-SHARING  
5 LIMITATIONS; REQUIRING A STUDY OF THE COST OF PRESCRIPTION  
6 DRUGS FOR NEW MEXICO CONSUMERS AND MAKING RECOMMENDATIONS ON  
7 INCREASING ACCESSIBILITY OF PRESCRIPTION DRUGS; AMENDING AND  
8 ENACTING SECTIONS OF THE NMSA 1978.

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

13 "INSULIN FOR DIABETES--COST-SHARING CAP.--Group health  
14 care coverage, including any form of self-insurance, offered,  
15 issued or renewed under the Health Care Purchasing Act shall  
16 cap the amount an insured is required to pay for a preferred  
17 formulary prescription insulin drug or a medically necessary  
18 alternative at an amount not to exceed a total of twenty-five  
19 dollars (\$25.00) per thirty-day supply."

20 SECTION 2. Section 59A-22-41 NMSA 1978 (being Laws  
21 1997, Chapter 7, Section 1 and also Laws 1997, Chapter 255,  
22 Section 1) is amended to read:

23 "59A-22-41. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

24 A. Each individual and group health insurance  
25 policy, health care plan, certificate of health insurance and

1 managed health care plan delivered or issued for delivery in  
2 this state shall provide coverage for individuals with  
3 insulin-using diabetes, with non-insulin-using diabetes and  
4 with elevated blood glucose levels induced by pregnancy.  
5 This coverage shall be a basic health care benefit and shall  
6 entitle each individual to the medically accepted standard of  
7 medical care for diabetes and benefits for diabetes treatment  
8 as well as diabetes supplies, and this coverage shall not be  
9 reduced or eliminated.

10 B. Except as otherwise provided in this  
11 subsection, coverage for individuals with diabetes may be  
12 subject to deductibles and coinsurance consistent with those  
13 imposed on other benefits under the same policy, plan or  
14 certificate, as long as the annual deductibles or coinsurance  
15 for benefits are no greater than the annual deductibles or  
16 coinsurance established for similar benefits within a given  
17 policy. The amount an individual with diabetes is required  
18 to pay for a preferred formulary prescription insulin drug or  
19 a medically necessary alternative is an amount not to exceed  
20 a total of twenty-five dollars (\$25.00) per thirty-day  
21 supply.

22 C. When prescribed or diagnosed by a health care  
23 practitioner with prescribing authority, all individuals with  
24 diabetes as described in Subsection A of this section  
25 enrolled in health policies described in that subsection

1 shall be entitled to the following equipment, supplies and  
2 appliances to treat diabetes:

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

5 (2) test strips for blood glucose monitors;

6 (3) visual reading urine and ketone strips;

7 (4) lancets and lancet devices;

8 (5) insulin;

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

11 (7) syringes;

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

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

20 (10) glucagon emergency kits.

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

1 benefits:

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

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

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

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

15 (2) medical nutrition therapy related to  
16 diabetes management.

17 E. When new or improved equipment, appliances,  
18 prescription drugs for the treatment of diabetes, insulin or  
19 supplies for the treatment of diabetes are approved by the  
20 food and drug administration, all individual or group health  
21 insurance policies as described in Subsection A of this  
22 section shall:

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

25 (2) guarantee reimbursement or coverage for

1 the equipment, appliances, prescription drug, insulin or  
2 supplies described in this subsection within the limits of  
3 the health care plan, policy or certificate.

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

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

9 H. For purposes of this section:

10 (1) "basic health care benefits":

11 (a) means benefits for medically  
12 necessary services consisting of preventive care, emergency  
13 care, inpatient and outpatient hospital and physician care,  
14 diagnostic laboratory and diagnostic and therapeutic  
15 radiological services; and

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

19 (2) "managed health care plan" means a  
20 health benefit plan offered by a health care insurer that  
21 provides for the delivery of comprehensive basic health care  
22 services and medically necessary services to individuals  
23 enrolled in the plan through its own employed health care  
24 providers or by contracting with selected or participating  
25 health care providers. A managed health care plan includes

1 only those plans that provide comprehensive basic health care  
2 services to enrollees on a prepaid, capitated basis,  
3 including the following:

- 4 (a) health maintenance organizations;
- 5 (b) preferred provider organizations;
- 6 (c) individual practice associations;
- 7 (d) competitive medical plans;
- 8 (e) exclusive provider organizations;
- 9 (f) integrated delivery systems;
- 10 (g) independent physician-provider  
11 organizations;
- 12 (h) physician hospital-provider  
13 organizations; and
- 14 (i) managed care services  
15 organizations."

16 SECTION 3. Section 59A-46-43 NMSA 1978 (being Laws  
17 1997, Chapter 7, Section 3 and Laws 1997, Chapter 255,  
18 Section 3) is amended to read:

19 "59A-46-43. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

20 A. Each individual and group health maintenance  
21 organization contract delivered or issued for delivery in  
22 this state shall provide coverage for individuals with  
23 insulin-using diabetes, with non-insulin-using diabetes and  
24 with elevated blood glucose levels induced by pregnancy.  
25 This coverage shall be a basic health care service and shall

1 entitle each individual to the medically accepted standard of  
2 medical care for diabetes and benefits for diabetes treatment  
3 as well as diabetes supplies, and this coverage shall not be  
4 reduced or eliminated.

5 B. Except as provided in this subsection, coverage  
6 for individuals with diabetes may be subject to deductibles  
7 and coinsurance consistent with those imposed on other  
8 benefits under the same contract, as long as the annual  
9 deductibles or coinsurance for benefits are no greater than  
10 the annual deductibles or coinsurance established for similar  
11 benefits within a given contract. The amount an individual  
12 with diabetes is required to pay for a preferred formulary  
13 prescription insulin drug or a medically necessary  
14 alternative is an amount not to exceed a total of twenty-five  
15 dollars (\$25.00) per thirty-day supply.

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

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

24 (2) test strips for blood glucose monitors;

25 (3) visual reading urine and ketone strips;

- 1 (4) lancets and lancet devices;
- 2 (5) insulin;
- 3 (6) injection aids, including those
- 4 adaptable to meet the needs of the legally blind;
- 5 (7) syringes;
- 6 (8) prescriptive oral agents for controlling
- 7 blood sugar levels;
- 8 (9) medically necessary podiatric appliances
- 9 for prevention of feet complications associated with
- 10 diabetes, including therapeutic molded or depth-inlay shoes,
- 11 functional orthotics, custom molded inserts, replacement
- 12 inserts, preventive devices and shoe modifications for
- 13 prevention and treatment; and
- 14 (10) glucagon emergency kits.

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

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

- 25 (a) medically necessary visits upon the

1 diagnosis of diabetes;

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

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

9 (2) medical nutrition therapy related to  
10 diabetes management.

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

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

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

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

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

1 disease policies."

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

- 16 A. inhaled prescription drugs used to control  
17 asthma;
- 18 B. oral medications to treat or control diabetes;
- 19 C. injectable epinephrine devices for severe  
20 allergic reactions;
- 21 D. opioid reversal agents;
- 22 E. medications used to treat hypertension;
- 23 F. antidepressant medications;
- 24 G. antipsychotic medications;
- 25 H. lipid-lowering agents; and

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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. \_\_\_\_\_