

1 SENATE TAX, BUSINESS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 51

3 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

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10 AN ACT

11 RELATING TO HEALTH CARE COVERAGE; CALCULATING COST-SHARING
12 CONTRIBUTIONS FOR PRESCRIPTION DRUG COVERAGE.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "[NEW MATERIAL] CALCULATING AN ENROLLEE'S COST-SHARING
18 OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

19 A. When calculating an enrollee's cost-sharing
20 obligation for covered prescription drugs, pursuant to group
21 health coverage, including any form of self-insurance, offered,
22 issued or renewed under the Health Care Purchasing Act, the
23 insurer shall credit the enrollee for the full value of any
24 discounts provided or payments made by third parties at the
25 time of the prescription drug claim.

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1 B. Beginning on or after January 1, 2024, an
2 insurer shall not charge a different cost-sharing amount for:

3 (1) prescription drugs or pharmacy services
4 obtained at a non-affiliated pharmacy; or

5 (2) administration of prescription drugs at
6 different infusion sites; provided that an insurer may
7 communicate with an insured regarding lower-cost sites of
8 service.

9 C. Beginning on or after January 1, 2024, an
10 insurer shall not require an insured to make a payment at the
11 point of sale for a covered prescription drug in an amount
12 greater than the least of the:

13 (1) applicable cost-sharing amount for the
14 prescription drug;

15 (2) amount an insured would pay for the
16 prescription drug if the insured purchased the prescription
17 drug without using a health benefits plan or any other source
18 of prescription drug benefits or discounts;

19 (3) total amount the pharmacy will be
20 reimbursed for the prescription drug from the insurer,
21 including the cost-sharing amount paid by an insurer; or

22 (4) value of the rebate from the manufacturer
23 provided to the insurer or its pharmacy benefits manager for
24 the prescribed drug.

25 D. Beginning on or after January 1, 2024, if a

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1 prescription drug rebate is more than the amount needed to
 2 reduce the insured's copayment to zero on a particular drug,
 3 the remainder shall be credited to the insurer.

4 E. Beginning on or after January 1, 2024, any
 5 rebate amount shall be counted toward the insured's out-of-
 6 pocket prescription drug costs.

7 F. For purposes of this section, "cost sharing"
 8 means any:

- 9 (1) copayment;
- 10 (2) coinsurance;
- 11 (3) deductible;
- 12 (4) out-of-pocket maximum amount;
- 13 (5) other financial obligation, other than a
 14 premium or share of a premium; or
- 15 (6) combination thereof.

16 G. The provisions of this section do not apply to
 17 excepted benefit plans as provided pursuant to the Short-Term
 18 Health Plan and Excepted Benefit Act, catastrophic plans, tax-
 19 favored plans or high-deductible health plans with health
 20 savings accounts until an eligible insured's deductible has
 21 been met, unless otherwise allowed pursuant to federal law."

22 **SECTION 2.** A new section of Chapter 59A, Article 16 NMSA
 23 1978 is enacted to read:

24 "[NEW MATERIAL] HEALTH BENEFITS PLAN DISCLOSURE.--Each
 25 producer, plan administrator or pharmacy benefits manager

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1 licensed in this state shall not produce a health benefits plan
2 for sale or pharmacy benefits services for contract without
3 prior disclosure to the purchaser of the plan or services of
4 the option to contract for pharmaceutical drug cost-sharing
5 protections."

6 SECTION 3. A new section of Chapter 59A, Article 22 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] CALCULATING AN INSURED'S COST-SHARING
9 OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

10 A. When calculating an insured's cost-sharing
11 obligation for covered prescription drugs, pursuant to an
12 individual or group health insurance policy, health care plan
13 or certificate of health insurance that is delivered, issued
14 for delivery or renewed in this state, the insurer shall credit
15 the insured for the full value of any discounts provided or
16 payments made by third parties at the time of the prescription
17 drug claim.

18 B. Beginning on or after January 1, 2024, an
19 insurer shall not charge a different cost-sharing amount for:

20 (1) prescription drugs or pharmacy services
21 obtained at a non-affiliated pharmacy; or

22 (2) administration of prescription drugs at
23 different infusion sites; provided that an insurer may
24 communicate with an insured regarding lower-cost sites of
25 service.

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1 C. Beginning on or after January 1, 2024, an
2 insurer shall not require an insured to make a payment at the
3 point of sale for a covered prescription drug in an amount
4 greater than the least of the:

5 (1) applicable cost-sharing amount for the
6 prescription drug;

7 (2) amount an insured would pay for the
8 prescription drug if the insured purchased the prescription
9 drug without using a health benefits plan or any other source
10 of prescription drug benefits or discounts;

11 (3) total amount the pharmacy will be
12 reimbursed for the prescription drug from the insurer,
13 including the cost-sharing amount paid by an insurer; or

14 (4) value of the rebate from the manufacturer
15 provided to the insurer or its pharmacy benefits manager for
16 the prescribed drug.

17 D. Beginning on or after January 1, 2024, if a
18 prescription drug rebate is more than the amount needed to
19 reduce the insured's copayment to zero on a particular drug,
20 the remainder shall be credited to the insurer.

21 E. Beginning on or after January 1, 2024, any
22 rebate amount shall be counted toward the insured's out-of-
23 pocket prescription drug costs.

24 F. For purposes of this section, "cost sharing"
25 means any:

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- 1 (1) copayment;
- 2 (2) coinsurance;
- 3 (3) deductible;
- 4 (4) out-of-pocket maximum;
- 5 (5) other financial obligation, other than a
- 6 premium or share of a premium; or
- 7 (6) combination thereof.

8 G. The provisions of this section do not apply to
9 excepted benefit plans as provided pursuant to the Short-Term
10 Health Plan and Excepted Benefit Act, catastrophic plans, tax-
11 favored plans or high-deductible health plans with health
12 savings accounts until an eligible insured's deductible has
13 been met, unless otherwise allowed pursuant to federal law."

14 SECTION 4. A new section of Chapter 59A, Article 23 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] CALCULATING AN INSURED'S COST-SHARING
17 OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

18 A. When calculating an insured's cost-sharing
19 obligation for covered prescription drugs, pursuant to a group
20 health plan other than a small group health plan or a blanket
21 health insurance policy or contract that is delivered, issued
22 for delivery or renewed in this state, the insurer shall credit
23 the insured for the full value of any discounts provided or
24 payments made by third parties at the time of the prescription
25 drug claim.

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1 B. Beginning on or after January 1, 2024, an
2 insurer shall not charge a different cost-sharing amount for:

3 (1) prescription drugs or pharmacy services
4 obtained at a non-affiliated pharmacy; or

5 (2) administration of prescription drugs at
6 different infusion sites; provided that an insurer may
7 communicate with an insured regarding lower-cost sites of
8 service.

9 C. Beginning on or after January 1, 2024, an
10 insurer shall not require an insured to make a payment at the
11 point of sale for a covered prescription drug in an amount
12 greater than the least of the:

13 (1) applicable cost-sharing amount for the
14 prescription drug;

15 (2) amount an insured would pay for the
16 prescription drug if the insured purchased the prescription
17 drug without using a health benefits plan or any other source
18 of prescription drug benefits or discounts;

19 (3) total amount the pharmacy will be
20 reimbursed for the prescription drug from the insurer,
21 including the cost-sharing amount paid by an insurer; or

22 (4) value of the rebate from the manufacturer
23 provided to the insurer or its pharmacy benefits manager for
24 the prescribed drug.

25 D. Beginning on or after January 1, 2024, if a

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1 prescription drug rebate is more than the amount needed to
2 reduce the insured's copayment to zero on a particular drug,
3 the remainder shall be credited to the insurer.

4 E. Beginning on or after January 1, 2024, any
5 rebate amount shall be counted toward the insured's out-of-
6 pocket prescription drug costs.

7 F. For purposes of this section, "cost sharing"
8 means any:

- 9 (1) copayment;
- 10 (2) coinsurance;
- 11 (3) deductible;
- 12 (4) out-of-pocket maximum;
- 13 (5) other financial obligation, other than a
14 premium or share of a premium; or
- 15 (6) combination thereof.

16 G. The provisions of this section do not apply to
17 excepted benefit plans as provided pursuant to the Short-Term
18 Health Plan and Excepted Benefit Act, catastrophic plans, tax-
19 favored plans or high-deductible health plans with health
20 savings accounts until an eligible insured's deductible has
21 been met, unless otherwise allowed pursuant to federal law."

22 SECTION 5. A new section of the Health Maintenance
23 Organization Law is enacted to read:

24 "[NEW MATERIAL] CALCULATING AN ENROLLEE'S COST-SHARING
25 OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

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1 A. When calculating an enrollee's cost-sharing
2 obligation for covered prescription drugs, pursuant to an
3 individual or group health maintenance organization contract
4 that is delivered, issued for delivery or renewed in this
5 state, the insurer shall credit the enrollee for the full value
6 of any discounts provided or payments made by third parties at
7 the time of the prescription drug claim.

8 B. Beginning on or after January 1, 2024, an
9 insurer shall not charge a different cost-sharing amount for:

10 (1) prescription drugs or pharmacy services
11 obtained at a non-affiliated pharmacy; or

12 (2) administration of prescription drugs at
13 different infusion sites; provided that an insurer may
14 communicate with an insured regarding lower-cost sites of
15 service.

16 C. Beginning on or after January 1, 2024, an
17 insurer shall not require an insured to make a payment at the
18 point of sale for a covered prescription drug in an amount
19 greater than the least of the:

20 (1) applicable cost-sharing amount for the
21 prescription drug;

22 (2) amount an insured would pay for the
23 prescription drug if the insured purchased the prescription
24 drug without using a health benefits plan or any other source
25 of prescription drug benefits or discounts;

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1 (3) total amount the pharmacy will be
2 reimbursed for the prescription drug from the insurer,
3 including the cost-sharing amount paid by an insurer; or

4 (4) value of the rebate from the manufacturer
5 provided to the insurer or its pharmacy benefits manager for
6 the prescribed drug.

7 D. Beginning on or after January 1, 2024, if a
8 prescription drug rebate is more than the amount needed to
9 reduce the insured's copayment to zero on a particular drug,
10 the remainder shall be credited to the insurer.

11 E. Beginning on or after January 1, 2024, any
12 rebate amount shall be counted toward the insured's out-of-
13 pocket prescription drug costs.

14 F. For purposes of this section, "cost sharing"
15 means any:

- 16 (1) copayment;
17 (2) coinsurance;
18 (3) deductible;
19 (4) out-of-pocket maximum;
20 (5) other financial obligation, other than a
21 premium or share of a premium; or

22 (6) combination thereof.

23 G. The provisions of this section do not apply to
24 excepted benefit plans as provided pursuant to the Short-Term
25 Health Plan and Excepted Benefit Act, catastrophic plans, tax-

1 favored plans or high-deductible health plans with health
2 savings accounts until an eligible insured's deductible has
3 been met, unless otherwise allowed pursuant to federal law."

4 SECTION 6. A new section of the Nonprofit Health Care
5 Plan Law is enacted to read:

6 "[NEW MATERIAL] CALCULATING A SUBSCRIBER'S COST-SHARING
7 OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

8 A. When calculating a subscriber's cost-sharing
9 obligation for covered prescription drugs, pursuant to an
10 individual or group health insurance policy, health care plan
11 or certificate of health insurance issued for delivery or
12 renewed in this state, the insurer shall credit the subscriber
13 for the full value of any discounts provided or payments made
14 by third parties at the time of the prescription drug claim.

15 B. Beginning on or after January 1, 2024, an
16 insurer shall not charge a different cost-sharing amount for:

17 (1) prescription drugs or pharmacy services
18 obtained at a non-affiliated pharmacy; or

19 (2) administration of prescription drugs at
20 different infusion sites; provided that an insurer may
21 communicate with an insured regarding lower-cost sites of
22 service.

23 C. Beginning on or after January 1, 2024, an
24 insurer shall not require an insured to make a payment at the
25 point of sale for a covered prescription drug in an amount

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1 greater than the least of the:

2 (1) applicable cost-sharing amount for the
3 prescription drug;

4 (2) amount an insured would pay for the
5 prescription drug if the insured purchased the prescription
6 drug without using a health benefits plan or any other source
7 of prescription drug benefits or discounts;

8 (3) total amount the pharmacy will be
9 reimbursed for the prescription drug from the insurer,
10 including the cost-sharing amount paid by an insurer; or

11 (4) value of the rebate from the manufacturer
12 provided to the insurer or its pharmacy benefits manager for
13 the prescribed drug.

14 D. Beginning on or after January 1, 2024, if a
15 prescription drug rebate is more than the amount needed to
16 reduce the insured's copayment to zero on a particular drug,
17 the remainder shall be credited to the insurer.

18 E. Beginning on or after January 1, 2024, any
19 rebate amount shall be counted toward the insured's out-of-
20 pocket prescription drug costs.

21 F. For purposes of this section, "cost sharing"
22 means any:

23 (1) copayment;

24 (2) coinsurance;

25 (3) deductible;

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- 1 (4) out-of-pocket maximum;
- 2 (5) other financial obligation, other than a
- 3 premium or share of a premium; or
- 4 (6) combination thereof.

5 G. The provisions of this section do not apply to
6 excepted benefit plans as provided pursuant to the Short-Term
7 Health Plan and Excepted Benefit Act, catastrophic plans, tax
8 favored plans or high-deductible health plans with health
9 savings accounts until an eligible insured's deductible has
10 been met, unless otherwise allowed pursuant to federal law."

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