

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 38

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO INSURANCE; AMENDING SECTIONS OF THE HEALTH CARE
PURCHASING ACT AND THE NEW MEXICO INSURANCE CODE TO REQUIRE
COVERAGE FOR COMPLEX REHABILITATION TECHNOLOGY DEVICES;
PROVIDING THAT DENIAL OF A COMPLEX REHABILITATION TECHNOLOGY
DEVICE WITH RESPECT TO A HEALTH BENEFITS PLAN IS AN UNFAIR AND
DECEPTIVE PRACTICE IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. Section 13-7-46 NMSA 1978 (being Laws 2023,
Chapter 196, Section 1) is amended to read:

"13-7-46. PROSTHETIC DEVICES--CUSTOM ORTHOTIC DEVICES--
COMPLEX REHABILITATION TECHNOLOGY DEVICES--MINIMUM COVERAGE.--

A. Group health coverage, including any form of
self-insurance, offered, issued or renewed under the Health
Care Purchasing Act shall provide coverage for ~~[prosthetics and~~

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1 ~~custom orthotics~~ prosthetic devices, custom orthotic devices
 2 and complex rehabilitation technology devices that is at least
 3 equivalent to that coverage currently provided by the federal
 4 medicare program and no less favorable than the terms and
 5 conditions that the group health plan offers for medical and
 6 surgical benefits. Covered benefits shall be provided for more
 7 than one prosthetic device, orthotic device or complex
 8 rehabilitation technology device when medically necessary, but
 9 shall include no more than three prosthetic devices or custom
 10 orthotic devices per affected limb per covered person and no
 11 more than two complex rehabilitation technology devices per
 12 covered person during any three-year period. [B.] A group
 13 health plan shall cover:

14 (1) the most appropriate prosthetic ~~or~~
 15 device, custom orthotic device or complex rehabilitation
 16 technology device determined to be medically necessary by the
 17 enrollee's treating physician and associated medical providers
 18 to restore or maintain the ability to complete activities of
 19 daily living or essential job-related activities ~~[and that is~~
 20 ~~not solely for the comfort or convenience of the enrollee].~~
 21 This coverage shall include all services and supplies necessary
 22 for the effective use of a prosthetic ~~or~~ device, a custom
 23 orthotic device or a complex rehabilitation technology device,
 24 including:

25 ~~(1)~~ (a) formulation of its design,

underscored material = new
 [bracketed material] = delete

1 fabrication, material and component selection, measurements,
2 fittings and static and dynamic alignments;

3 ~~[(2)]~~ (b) all materials and components
4 necessary to use it;

5 ~~[(3)]~~ (c) instructing the enrollee in
6 the use of it; and

7 ~~[(4)]~~ (d) the repair and replacement of
8 it;

9 (2) ~~[G. A group health plan shall cover]~~ a
10 prosthetic ~~[or]~~ device, a custom orthotic device or a complex
11 rehabilitation technology device determined by the enrollee's
12 provider to be the most appropriate model that meets the
13 medical needs of the enrollee for performing physical
14 activities, including running, biking and swimming, and to
15 maximize the enrollee's upper limb function. This coverage
16 shall include all services and supplies necessary for the
17 effective use of a prosthetic ~~[or]~~ device, a custom orthotic
18 device or a complex rehabilitation technology device,
19 including:

20 ~~[(1)]~~ (a) formulation of its design,
21 fabrication, material and component selection, measurements,
22 fittings and static and dynamic alignments;

23 ~~[(2)]~~ (b) all materials and components
24 necessary to use it;

25 ~~[(3)]~~ (c) instructing the enrollee in

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1 the use of it; and

2 ~~[(4)]~~ (d) the repair and replacement of
3 it; and

4 (3) a prosthetic device, orthotic device or
5 complex rehabilitation technology device determined by the
6 enrollee's prosthetic or orthotic care provider or complex
7 rehabilitation technology device accredited supplier to be the
8 most appropriate prosthetic device, orthotic device or complex
9 rehabilitation technology device that meets the medical needs
10 of the enrollee for purposes of showering or bathing.

11 ~~[D.]~~ B. A group health plan's reimbursement rate
12 for prosthetic ~~[and]~~ devices, custom orthotic devices or
13 complex rehabilitation technology devices shall be at least
14 equivalent to that currently provided by the federal medicare
15 program and no more restrictive than other coverage under the
16 group health plan.

17 ~~[E.]~~ C. Prosthetic ~~[and]~~ device, custom orthotic
18 device or complex rehabilitation technology device coverage
19 shall be comparable to coverage for other medical and surgical
20 benefits under the group health plan, including restorative
21 internal devices such as internal prosthetic devices, and shall
22 not be subject to spending limits or lifetime restrictions.

23 ~~[F.]~~ D. Prosthetic ~~[and]~~ device, custom orthotic
24 device or complex rehabilitation technology device coverage
25 shall not be subject to separate financial requirements that

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1 are applicable only with respect to that coverage. A group
 2 health plan may impose cost sharing on prosthetic ~~[or]~~ devices,
 3 custom orthotic devices or complex rehabilitation technology
 4 devices; provided that any cost-sharing requirements shall not
 5 be more restrictive than the cost-sharing requirements
 6 applicable to the plan's medical and surgical benefits,
 7 including those for internal devices.

8 ~~[G.]~~ E. A group health plan may limit the coverage
 9 for, or alter the cost-sharing requirements for, out-of-network
 10 coverage of prosthetic ~~[and]~~ devices, custom orthotic devices
 11 or complex rehabilitation technology devices; provided that the
 12 restrictions and cost-sharing requirements applicable to
 13 prosthetic ~~[or]~~ devices, custom orthotic devices or complex
 14 rehabilitation technology devices shall not be more restrictive
 15 than the restrictions and requirements applicable to the out-
 16 of-network coverage for a group health plan's medical and
 17 surgical coverage.

18 ~~[H.]~~ F. In the event that medically necessary
 19 covered ~~[orthotics and prosthetics]~~ prosthetic devices, custom
 20 orthotic devices or complex rehabilitation technology devices
 21 are not available from an in-network provider, the insurer
 22 shall provide processes to refer a member to an out-of-network
 23 provider and shall fully reimburse the out-of-network provider
 24 at a mutually agreed upon rate less member cost sharing
 25 determined on an in-network basis.

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1 ~~[F.]~~ G. A group health plan shall not impose any
2 annual or lifetime dollar maximum on coverage for prosthetic
3 ~~[or]~~ devices, custom orthotic devices or complex rehabilitation
4 technology devices other than an annual or lifetime dollar
5 maximum that applies in the aggregate to all terms and services
6 covered under the group health plan.

7 ~~[J.]~~ H. If coverage is provided through a managed
8 care plan, an enrollee shall have access to medically necessary
9 clinical care and to prosthetic ~~[and]~~ devices, custom orthotic
10 devices or complex rehabilitation technology devices
11 and technology from not less than two distinct prosthetic ~~[and]~~
12 device, custom orthotic device or complex rehabilitation
13 technology device providers in the managed care plan's provider
14 network located in the state.

15 ~~[K.]~~ I. Coverage for prosthetic ~~[and]~~ devices,
16 custom orthotic devices or complex rehabilitation technology
17 devices shall be considered habilitative or rehabilitative
18 benefits for purposes of any state or federal requirement for
19 coverage of essential health benefits, including habilitative
20 and rehabilitative benefits.

21 ~~[L.]~~ J. If coverage for prosthetic ~~[or]~~ devices,
22 custom orthotic devices or complex rehabilitation technology
23 devices is provided, payment shall be made for the replacement
24 of a prosthetic ~~[or]~~ device, a custom orthotic device or a
25 complex rehabilitation technology device or for the replacement

1 of any part of such devices, without regard to continuous use
 2 or useful lifetime restrictions, if an ordering health care
 3 provider determines that the provision of a replacement device,
 4 or a replacement part of such a device, is necessary because of
 5 any of the following:

6 (1) a change in the physiological condition of
 7 the patient;

8 (2) an irreparable change in the condition of
 9 the device or in a part of the device; or

10 (3) the condition of the device or the part of
 11 the device requires repairs, and the cost of such repairs would
 12 be more than sixty percent of the cost of a replacement device
 13 or of the part being replaced.

14 K. Coverage for complex rehabilitation technology
 15 devices shall be based on an enrollee's specific medical,
 16 physical, functional and environmental needs and capacities to
 17 engage in normal life activities and shall allow an enrollee to
 18 obtain more than one wheelchair or mobility device to be used
 19 for the following purposes:

20 (1) for daily use that meets the enrollee's
 21 mobility and positioning needs; or

22 (2) to enable the enrollee to participate in
 23 physical activities necessary to achieve or maintain health and
 24 support functional independence.

25 L. A complex rehabilitation technology device that

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1 is a manual or power wheelchair shall only be covered pursuant
2 to this section if the:

3 (1) enrollee has undergone a complex
4 rehabilitation technology device evaluation conducted by a
5 licensed physical therapist or occupational therapist who has
6 no financial relationship with the supplier of the complex
7 rehabilitation technology device; and

8 (2) complex rehabilitation technology device
9 is provided by a complex rehabilitation technology device
10 supplier that:

11 (a) employs at least one assistive
12 technology professional certified by the rehabilitation
13 engineering and assistive technology society of North America
14 who specialized in seating, positioning and mobility and has
15 direct, in-person involvement in the wheelchair selection for
16 the enrollee; and

17 (b) makes at least one qualified complex
18 rehabilitation technology device service technician available
19 in each service area served by the supplier to service and
20 repair devices that are furnished by the supplier.

21 M. Confirmation from a prescribing health care
22 provider may be required if the prosthetic ~~[or]~~ device, custom
23 orthotic device or complex rehabilitation technology device or
24 part being replaced is less than three years old.

25 N. A group health plan subject to the Health Care

1 Purchasing Act shall not discriminate against individuals based
2 on disability, including limb loss, absence or malformation.

3 0. For the purposes of this section, "complex
4 rehabilitation technology device" means a subset of durable
5 medical equipment that:

6 (1) consists of complex rehabilitation manual
7 and power wheelchairs and mobility devices, including
8 specialized seating and positioning items, options and
9 accessories;

10 (2) is designed, manufactured, configured,
11 adjusted or modified for a specific person to meet that
12 person's unique medical, physical, functional and environmental
13 needs and capacities;

14 (3) is generally not useful to a person in the
15 absence of a disability, illness, injury or other medical
16 condition; and

17 (4) requires specialized services to ensure
18 appropriate use of the item, including:

19 (a) an evaluation of the features and
20 functions necessary to assist the person who will use the
21 device; or

22 (b) configuring, fitting, programming,
23 adjusting or adapting the particular device for use by a
24 person."

25 SECTION 2. Section 59A-16-21.4 NMSA 1978 (being Laws

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1 2023, Chapter 196, Section 2) is amended to read:

2 "59A-16-21.4. UNFAIR TRADE PRACTICES ON THE BASIS OF
3 DISABILITY PROHIBITED.--

4 A. Any of the following practices with respect to a
5 health benefits plan are defined as unfair and deceptive
6 practices and are prohibited:

7 (1) canceling or changing the premiums,
8 benefits or conditions of a health benefits plan on the basis
9 of an insured's actual or perceived disability;

10 (2) denying a prosthetic ~~[or]~~ device, a custom
11 orthotic device or a complex rehabilitation technology device
12 benefit for ~~[an individual with limb loss or absence]~~ a person
13 with limb loss, limb absence or mobility limitation that would
14 otherwise be covered for a non-disabled person seeking medical
15 or surgical intervention to restore or maintain the ability to
16 perform the same physical activity;

17 (3) failure to apply the most recent version
18 of treatment and fit criteria developed by the professional
19 association with the most relevant clinical specialty when
20 performing a utilization review for a request for coverage of
21 prosthetic ~~[or]~~ device, custom orthotic device or complex
22 rehabilitation technology device benefits; and

23 (4) failure to apply medical necessity review
24 standards developed by the professional association with the
25 most relevant clinical specialty when conducting utilization

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1 management review or processing appeals regarding benefit
2 denial.

3 B. For purposes of this section:

4 (1) "complex rehabilitation technology device"
5 means a subset of durable medical equipment that:

6 (a) consists of complex rehabilitation
7 manual and power wheelchairs and mobility devices, including
8 specialized seating and positioning items, options and
9 accessories;

10 (b) is designed, manufactured,
11 configured, adjusted or modified for a specific person to meet
12 that person's unique medical, physical, functional and
13 environmental needs and capacities;

14 (c) is generally not useful to a person
15 in the absence of a disability, illness, injury or other
16 medical condition; and

17 (d) requires specialized services to
18 ensure appropriate use of the item, including: 1) an
19 evaluation of the features and functions necessary to assist
20 the person who will use the device; or 2) configuring, fitting,
21 programming, adjusting or adapting the particular device for
22 use by a person; and

23 (2) "health benefits plan" means a policy or
24 agreement entered into, offered or issued by a health insurance
25 carrier to provide, deliver, arrange for, pay for or reimburse

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1 the costs of health care services; provided that "health
2 benefits plan" does not include the following:

3 ~~[(1)]~~ (a) an accident-only policy;
4 ~~[(2)]~~ (b) a credit-only policy;
5 ~~[(3)]~~ (c) a long- or short-term care or
6 disability income policy;

7 ~~[(4)]~~ (d) a specified disease policy;
8 ~~[(5)]~~ (e) coverage provided pursuant to
9 Title 18 of the federal Social Security Act, as amended;

10 ~~[(6)]~~ (f) coverage provided pursuant to
11 Title 19 of the federal Social Security Act and the Public
12 Assistance Act;

13 ~~[(7)]~~ (g) a federal TRICARE policy,
14 including a federal civilian health and medical program of the
15 uniformed services supplement;

16 ~~[(8)]~~ (h) a fixed or hospital indemnity
17 policy;

18 ~~[(9)]~~ (i) a dental-only policy;

19 ~~[(10)]~~ (j) a vision-only policy;

20 ~~[(11)]~~ (k) a workers' compensation
21 policy;

22 ~~[(12)]~~ (l) an automobile medical payment
23 policy; or

24 ~~[(13)]~~ (m) any other policy specified in
25 rules of the superintendent."

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 3. Section 59A-22-62 NMSA 1978 (being Laws 2023,
2 Chapter 196, Section 3) is amended to read:

3 "59A-22-62. MEDICAL NECESSITY AND NONDISCRIMINATION
4 STANDARDS FOR COVERAGE OF [~~PROSTHETICS OR ORTHOTICS~~] PROSTHETIC
5 DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX REHABILITATION
6 TECHNOLOGY DEVICES.--

7 A. An individual health plan that is delivered,
8 issued for delivery or renewed in this state that offers
9 coverage for prosthetic [~~and~~] devices, custom orthotic devices
10 or complex rehabilitation technology devices shall consider
11 these benefits habilitative or rehabilitative benefits for
12 purposes of any state or federal requirement for coverage of
13 essential health benefits.

14 B. When performing a utilization review for a
15 request for coverage of prosthetic [~~or~~] device, custom orthotic
16 device or complex rehabilitation technology device benefits, an
17 insurer shall apply the most recent version of evidence-based
18 treatment and fit criteria as recognized by relevant clinical
19 specialists or their organizations. Such standards may be
20 named by the superintendent in rule.

21 C. An insurer shall render utilization review
22 determinations in a nondiscriminatory manner and shall not deny
23 coverage for habilitative or rehabilitative benefits, including
24 [~~prosthetics or orthotics~~] prosthetic devices, custom orthotic
25 devices or complex rehabilitation technology devices, solely on

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1 the basis of an insured's actual or perceived disability.

2 D. An insurer shall not deny a prosthetic [~~or~~
3 device, a custom orthotic device or a complex rehabilitation
4 technology device benefit for [~~an individual with limb loss or~~
5 ~~absence~~] a person with limb loss, limb absence or mobility
6 limitation that would otherwise be covered for a non-disabled
7 person seeking medical or surgical intervention to restore or
8 maintain the ability to perform the same physical activity.
9 Covered benefits shall be provided for more than one prosthetic
10 device, orthotic device or complex rehabilitation technology
11 device when medically necessary, but shall include no more than
12 three prosthetic devices or custom orthotic devices per
13 affected limb per covered person and no more than two complex
14 rehabilitation technology devices per covered person during any
15 three-year period. An individual health plan shall cover:

16 (1) the most appropriate prosthetic device,
17 custom orthotic device or complex rehabilitation technology
18 device determined to be medically necessary by the insured's
19 treating physician and associated medical providers to restore
20 or maintain the ability to complete activities of daily living
21 or essential job-related activities. This coverage shall
22 include all services and supplies necessary for the effective
23 use of a prosthetic device, a custom orthotic device or a
24 complex rehabilitation technology device, including:

25 (a) formulation of its design,

1 fabrication, material and component selection, measurements,
2 fittings and static and dynamic alignments;

3 (b) all materials and components
4 necessary to use it;

5 (c) instructing the insured in the use
6 of it; and

7 (d) the repair and replacement of it;

8 (2) a prosthetic device, a custom orthotic
9 device or a complex rehabilitation technology device determined
10 by the insured's provider to be the most appropriate model that
11 meets the medical needs of the insured for performing physical
12 activities, including running, biking and swimming, and to
13 maximize the insured's upper limb function. This coverage
14 shall include all services and supplies necessary for the
15 effective use of a prosthetic device, a custom orthotic device
16 or a complex rehabilitation technology device, including:

17 (a) formulation of its design,
18 fabrication, material and component selection, measurements,
19 fittings and static and dynamic alignments;

20 (b) all materials and components
21 necessary to use it;

22 (c) instructing the insured in the use
23 of it; and

24 (d) the repair and replacement of it;

25 and

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1 (3) a prosthetic device, orthotic device or
2 complex rehabilitation technology device determined by the
3 insured's prosthetic or orthotic care provider or complex
4 rehabilitation technology device accredited supplier to be the
5 most appropriate prosthetic device, orthotic device or complex
6 rehabilitation technology device that meets the medical needs
7 of the insured for purposes of showering or bathing.

8 E. [A] An individual health [~~benefits~~] plan that is
9 delivered, issued for delivery or renewed in this state that
10 offers coverage for [~~prosthetics and~~] prosthetic devices,
11 custom orthotic devices or complex rehabilitation technology
12 devices shall include language describing an insured's rights
13 pursuant to Subsections C and D of this section in its evidence
14 of coverage and any benefit denial letters.

15 F. Prosthetic [~~and~~] device, custom orthotic device
16 or complex rehabilitation technology device coverage shall not
17 be subject to separate financial requirements that are
18 applicable only with respect to that coverage. An individual
19 health plan may impose cost sharing on prosthetic [~~or~~] devices,
20 custom orthotic devices or complex rehabilitation technology
21 devices; provided that any cost-sharing requirements shall not
22 be more restrictive than the cost-sharing requirements
23 applicable to the plan's coverage for inpatient physician and
24 surgical services.

25 G. [A] An individual health plan that provides

1 coverage for [~~prosthetic or orthotic~~] services related to
 2 prosthetic devices, custom orthotic devices or complex
 3 rehabilitation technology devices shall ensure access to
 4 medically necessary clinical care and to prosthetic [~~and~~]
 5 devices, custom orthotic devices or complex rehabilitation
 6 technology devices and technology from not less than two
 7 distinct prosthetic [~~and~~] device, custom orthotic device or
 8 complex rehabilitation technology device providers in the
 9 [~~managed care~~] plan's provider network located in the state.
 10 In the event that medically necessary covered [~~orthotics and~~
 11 ~~prosthetics~~] prosthetic devices, custom orthotic devices or
 12 complex rehabilitation technology devices are not available
 13 from an in-network provider, the insurer shall provide
 14 processes to refer a member to an out-of-network provider and
 15 shall fully reimburse the out-of-network provider at a mutually
 16 agreed upon rate less member cost sharing determined on an in-
 17 network basis.

18 H. If coverage for prosthetic [~~or~~] devices, custom
 19 orthotic devices or complex rehabilitation technology devices
 20 is provided, payment shall be made for the replacement of a
 21 prosthetic [~~or~~] device, a custom orthotic device or a complex
 22 rehabilitation technology device or for the replacement of any
 23 part of such devices, without regard to continuous use or
 24 useful lifetime restrictions, if an ordering health care
 25 provider determines that the provision of a replacement device,

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1 or a replacement part of such a device, is necessary because of
2 any of the following:

3 (1) a change in the physiological condition of
4 the patient;

5 (2) an irreparable change in the condition of
6 the device or in a part of the device; or

7 (3) the condition of the device or the part of
8 the device requires repairs, and the cost of such repairs would
9 be more than sixty percent of the cost of a replacement device
10 or of the part being replaced.

11 I. Coverage for complex rehabilitation technology
12 devices shall be based on an insured's specific medical,
13 physical, functional and environmental needs and capacities to
14 engage in normal life activities and shall allow an insured to
15 obtain more than one wheelchair or mobility device to be used
16 for the following purposes:

17 (1) for daily use that meets the insured's
18 mobility and positioning needs; or

19 (2) to enable the insured to participate in
20 physical activities necessary to achieve or maintain health and
21 support functional independence.

22 J. A complex rehabilitation technology device that
23 is a manual or power wheelchair shall only be covered pursuant
24 to this section if the:

25 (1) insured has undergone a complex

1 rehabilitation technology device evaluation conducted by a
 2 licensed physical therapist or occupational therapist who has
 3 no financial relationship with the supplier of the complex
 4 rehabilitation technology device; and

5 (2) complex rehabilitation technology device
 6 is provided by a complex rehabilitation technology device
 7 supplier that:

8 (a) employs at least one assistive
 9 technology professional certified by the rehabilitation
 10 engineering and assistive technology society of North America
 11 who specialized in seating, positioning and mobility and has
 12 direct, in-person involvement in the wheelchair selection for
 13 the member; and

14 (b) makes at least one qualified complex
 15 rehabilitation technology device service technician available
 16 in each service area served by the supplier to service and
 17 repair devices that are furnished by the supplier.

18 ~~[I.]~~ K. Confirmation from a prescribing health care
 19 provider may be required if the prosthetic ~~[O.]~~ device, custom
 20 orthotic device or complex rehabilitation technology device or
 21 part being replaced is less than three years old.

22 ~~[J.]~~ L. The provisions of this section do not apply
 23 to excepted benefits plans subject to the Short-Term Health
 24 Plan and Excepted Benefit Act.

25 M. For the purposes of this section, "complex

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1 rehabilitation technology device" means a subset of durable
2 medical equipment that:

3 (1) consists of complex rehabilitation manual
4 and power wheelchairs and mobility devices, including
5 specialized seating and positioning items, options and
6 accessories;

7 (2) is designed, manufactured, configured,
8 adjusted or modified for a specific person to meet that
9 person's unique medical, physical, functional and environmental
10 needs and capacities;

11 (3) is generally not useful to a person in the
12 absence of a disability, illness, injury or other medical
13 condition; and

14 (4) requires specialized services to ensure
15 appropriate use of the item, including:

16 (a) an evaluation of the features and
17 functions necessary to assist the person who will use the
18 device; or

19 (b) configuring, fitting, programming,
20 adjusting or adapting the particular device for use by a
21 person."

22 SECTION 4. Section 59A-23-32 NMSA 1978 (being Laws 2023,
23 Chapter 196, Section 4) is amended to read:

24 "59A-23-32. MEDICAL NECESSITY AND NONDISCRIMINATION
25 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]

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1 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX
 2 REHABILITATION TECHNOLOGY DEVICES.--

3 A. A group health plan that is delivered, issued
 4 for delivery or renewed in this state that covers essential
 5 health benefits or covers prosthetic ~~[and]~~ devices, custom
 6 orthotic devices or complex rehabilitation technology devices
 7 shall consider these benefits habilitative or rehabilitative
 8 benefits for purposes of state or federal requirements on
 9 essential health benefits coverage.

10 B. When performing a utilization review for a
 11 request for coverage of prosthetic ~~[or]~~ device, custom orthotic
 12 device or complex rehabilitation technology device benefits, an
 13 insurer shall apply the most recent version of evidence-based
 14 treatment and fit criteria as recognized by relevant clinical
 15 specialists or their organizations. Such standards may be
 16 named by the superintendent in rule.

17 C. An insurer shall render utilization review
 18 determinations in a nondiscriminatory manner and shall not deny
 19 coverage for habilitative or rehabilitative benefits, including
 20 ~~[prosthetics or orthotics]~~ prosthetic devices, custom orthotic
 21 devices or complex rehabilitation technology devices, solely
 22 based on an insured's actual or perceived disability.

23 D. An insurer shall not deny a prosthetic ~~[or]~~
 24 device, a custom orthotic device or a complex rehabilitation
 25 technology device benefit for ~~{an individual with limb loss or~~

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1 ~~absence]~~ a person with limb loss, limb absence or mobility
2 limitation that would otherwise be covered for a non-disabled
3 person seeking medical or surgical intervention to restore or
4 maintain the ability to perform the same physical activity.
5 Covered benefits shall be provided for more than one prosthetic
6 device, orthotic device or complex rehabilitation technology
7 device when medically necessary, but shall include no more than
8 three prosthetic devices or custom orthotic devices per
9 affected limb per covered person and no more than two complex
10 rehabilitation technology devices per covered person during any
11 three-year period. A group health plan shall cover:

12 (1) the most appropriate prosthetic device,
13 custom orthotic device or complex rehabilitation technology
14 device determined to be medically necessary by the insured's
15 treating physician and associated medical providers to restore
16 or maintain the ability to complete activities of daily living
17 or essential job-related activities. This coverage shall
18 include all services and supplies necessary for the effective
19 use of a prosthetic device, a custom orthotic device or a
20 complex rehabilitation technology device, including:

21 (a) formulation of its design,
22 fabrication, material and component selection, measurements,
23 fittings and static and dynamic alignments;

24 (b) all materials and components
25 necessary to use it;

1 (c) instructing the insured in the use
2 of it; and

3 (d) the repair and replacement of it;

4 (2) a prosthetic device, a custom orthotic
5 device or a complex rehabilitation technology device determined
6 by the insured's provider to be the most appropriate model that
7 meets the medical needs of the insured for performing physical
8 activities, including running, biking and swimming, and to
9 maximize the insured's upper limb function. This coverage
10 shall include all services and supplies necessary for the
11 effective use of a prosthetic device, a custom orthotic device
12 or a complex rehabilitation technology device, including:

13 (a) formulation of its design,
14 fabrication, material and component selection, measurements,
15 fittings and static and dynamic alignments;

16 (b) all materials and components
17 necessary to use it;

18 (c) instructing the insured in the use
19 of it; and

20 (d) the repair and replacement of it;

21 and

22 (3) a prosthetic device, orthotic device or
23 complex rehabilitation technology device determined by the
24 insured's prosthetic or orthotic care provider or complex
25 rehabilitation technology device accredited supplier to be the

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1 most appropriate prosthetic device, orthotic device or complex
2 rehabilitation technology device that meets the medical needs
3 of the insured for purposes of showering or bathing.

4 E. A group health [~~benefits~~] plan that is
5 delivered, issued for delivery or renewed in this state that
6 offers coverage for [~~prosthetics and~~] prosthetic devices,
7 custom orthotic devices or complex rehabilitation technology
8 devices shall include language describing an insured's rights
9 pursuant to Subsections C and D of this section in its evidence
10 of coverage and any benefit denial letters.

11 F. Prosthetic [~~and~~] device, custom orthotic device
12 or complex rehabilitation technology device coverage shall not
13 be subject to separate financial requirements that are
14 applicable only with respect to that coverage. A group health
15 plan may impose cost sharing on prosthetic [~~or~~] devices, custom
16 orthotic devices or complex rehabilitation technology devices;
17 provided that any cost-sharing requirements shall not be more
18 restrictive than the cost-sharing requirements applicable to
19 the plan's coverage for inpatient physician and surgical
20 services.

21 G. A group health plan that provides coverage for
22 [~~prosthetic or orthotic~~] services related to prosthetic
23 devices, custom orthotic devices or complex rehabilitation
24 technology devices shall ensure access to medically necessary
25 clinical care and to prosthetic [~~and~~] devices, custom orthotic

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underscored material = new
[bracketed material] = delete

1 devices or complex rehabilitation technology devices and
 2 technology from not less than two distinct prosthetic [~~and~~]
 3 device, custom orthotic device or complex rehabilitation
 4 technology device providers in the [~~managed care~~] plan's
 5 provider network located in the state. In the event that
 6 medically necessary covered [~~orthotics and prosthetics~~]
 7 prosthetic devices, custom orthotic devices or complex
 8 rehabilitation technology devices are not available from an in-
 9 network provider, the insurer shall provide processes to refer
 10 a member to an out-of-network provider and shall fully
 11 reimburse the out-of-network provider at a mutually agreed upon
 12 rate less member cost sharing determined on an in-network
 13 basis.

14 H. If coverage for prosthetic [~~or~~] devices, custom
 15 orthotic devices or complex rehabilitation technology devices
 16 is provided, payment shall be made for the replacement of a
 17 prosthetic [~~or~~] device, a custom orthotic device or a complex
 18 rehabilitation technology device or for the replacement of any
 19 part of such devices, without regard to continuous use or
 20 useful lifetime restrictions, if an ordering health care
 21 provider determines that the provision of a replacement device,
 22 or a replacement part of such a device, is necessary because of
 23 any of the following:

24 (1) a change in the physiological condition of
 25 the patient;

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1 (2) an irreparable change in the condition of
2 the device or in a part of the device; or

3 (3) the condition of the device or the part of
4 the device requires repairs, and the cost of such repairs would
5 be more than sixty percent of the cost of a replacement device
6 or of the part being replaced.

7 I. Coverage for complex rehabilitation technology
8 devices shall be based on an insured's specific medical,
9 physical, functional and environmental needs and capacities to
10 engage in normal life activities and shall allow an insured to
11 obtain more than one wheelchair or mobility device to be used
12 for the following purposes:

13 (1) for daily use that meets the insured's
14 mobility and positioning needs; or

15 (2) to enable the insured to participate in
16 physical activities necessary to achieve or maintain health and
17 support functional independence.

18 J. A complex rehabilitation technology device that
19 is a manual or power wheelchair shall only be covered pursuant
20 to this section if the:

21 (1) insured has undergone a complex
22 rehabilitation technology device evaluation conducted by a
23 licensed physical therapist or occupational therapist who has
24 no financial relationship with the supplier of the complex
25 rehabilitation technology device; and

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1 (2) complex rehabilitation technology device
 2 is provided by a complex rehabilitation technology device
 3 supplier that:

4 (a) employs at least one assistive
 5 technology professional certified by the rehabilitation
 6 engineering and assistive technology society of North America
 7 who specialized in seating, positioning and mobility and has
 8 direct, in-person involvement in the wheelchair selection for
 9 the member; and

10 (b) makes at least one qualified complex
 11 rehabilitation technology device service technician available
 12 in each service area served by the supplier to service and
 13 repair devices that are furnished by the supplier.

14 ~~[F.]~~ K. Confirmation from a prescribing health care
 15 provider may be required if the prosthetic ~~[ø]~~ device, custom
 16 orthotic device or complex rehabilitation technology device or
 17 part being replaced is less than three years old.

18 ~~[J.]~~ L. The provisions of this section do not apply
 19 to excepted benefits plans subject to the Short-Term Health
 20 Plan and Excepted Benefit Act.

21 M. For the purposes of this section, "complex
 22 rehabilitation technology device" means a subset of durable
 23 medical equipment that:

24 (1) consists of complex rehabilitation manual
 25 and power wheelchairs and mobility devices, including

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1 specialized seating and positioning items, options and
2 accessories;

3 (2) is designed, manufactured, configured,
4 adjusted or modified for a specific person to meet that
5 person's unique medical, physical, functional and environmental
6 needs and capacities;

7 (3) is generally not useful to a person in the
8 absence of a disability, illness, injury or other medical
9 condition; and

10 (4) requires specialized services to ensure
11 appropriate use of the item, including:

12 (a) an evaluation of the features and
13 functions necessary to assist the person who will use the
14 device; or

15 (b) configuring, fitting, programming,
16 adjusting or adapting the particular device for use by a
17 person."

18 SECTION 5. Section 59A-46-72 NMSA 1978 (being Laws 2023,
19 Chapter 196, Section 5) is amended to read:

20 "59A-46-72. MEDICAL NECESSITY AND NONDISCRIMINATION
21 STANDARDS FOR COVERAGE OF ~~[PROSTHETICS AND ORTHOTIGS]~~
22 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX
23 REHABILITATION TECHNOLOGY DEVICES.--

24 A. An individual or group health maintenance
25 organization contract that is delivered, issued for delivery or

1 renewed in this state that covers essential health benefits and
 2 covers prosthetic ~~and~~ devices, custom orthotic devices or
 3 complex rehabilitation technology devices shall consider these
 4 benefits habilitative or rehabilitative benefits for purposes
 5 of state or federal requirements on essential health benefits
 6 coverage.

7 B. When performing a utilization review for a
 8 request for coverage of prosthetic ~~or~~ device, custom orthotic
 9 device or complex rehabilitation technology device benefits,
 10 ~~[an insurer]~~ a health maintenance organization shall apply the
 11 most recent version of evidence-based treatment and fit
 12 criteria as recognized by relevant clinical specialists or
 13 their organizations. Such standards may be named by the
 14 superintendent in rule.

15 C. ~~[An insurer]~~ A health maintenance organization
 16 shall render utilization review determinations in a
 17 nondiscriminatory manner and shall not deny coverage for
 18 habilitative or rehabilitative benefits, including ~~[prosthetics~~
 19 ~~or orthotics]~~ prosthetic devices, custom orthotic devices or
 20 complex rehabilitation technology devices, solely based on an
 21 ~~[insured's]~~ enrollee's actual or perceived disability.

22 D. ~~[An insurer]~~ A health maintenance organization
 23 shall not deny a prosthetic ~~or~~ device, a custom orthotic
 24 device a or complex rehabilitation technology device benefit
 25 for ~~[an individual with limb loss or absence]~~ a person with

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1 limb loss, limb absence or mobility limitation that would
2 otherwise be covered for a non-disabled person seeking medical
3 or surgical intervention to restore or maintain the ability to
4 perform the same physical activity. Covered benefits shall be
5 provided for more than one prosthetic device, orthotic device
6 or complex rehabilitation technology device when medically
7 necessary, but shall include no more than three prosthetic
8 devices or custom orthotic devices per affected limb per
9 covered person and no more than two complex rehabilitation
10 technology devices per covered person during any three-year
11 period. An individual or group health maintenance organization
12 contract shall cover:

13 (1) the most appropriate prosthetic device,
14 custom orthotic device or complex rehabilitation technology
15 device determined to be medically necessary by the enrollee's
16 treating physician and associated medical providers to restore
17 or maintain the ability to complete activities of daily living
18 or essential job-related activities. This coverage shall
19 include all services and supplies necessary for the effective
20 use of a prosthetic device, a custom orthotic device or a
21 complex rehabilitation technology device, including:

22 (a) formulation of its design,
23 fabrication, material and component selection, measurements,
24 fittings and static and dynamic alignments;

25 (b) all materials and components

1 necessary to use it;

2 (c) instructing the enrollee in the use
3 of it; and

4 (d) the repair and replacement of it;

5 (2) a prosthetic device, a custom orthotic
6 device or a complex rehabilitation technology device determined
7 by the enrollee's provider to be the most appropriate model
8 that meets the medical needs of the enrollee for performing
9 physical activities, including running, biking and swimming,
10 and to maximize the enrollee's upper limb function. This
11 coverage shall include all services and supplies necessary for
12 the effective use of a prosthetic device, a custom orthotic
13 device or a complex rehabilitation technology device,
14 including:

15 (a) formulation of its design,
16 fabrication, material and component selection, measurements,
17 fittings and static and dynamic alignments;

18 (b) all materials and components
19 necessary to use it;

20 (c) instructing the enrollee in the use
21 of it; and

22 (d) the repair and replacement of it;

23 and

24 (3) a prosthetic device, orthotic device or
25 complex rehabilitation technology device determined by the

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underscored material = new
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1 enrollee's prosthetic or orthotic care provider or complex
2 rehabilitation technology device accredited supplier to be the
3 most appropriate prosthetic device, orthotic device or complex
4 rehabilitation technology device that meets the medical needs
5 of the enrollee for purposes of showering or bathing.

6 E. ~~[A health benefits plan]~~ An individual or group
7 health maintenance organization contract that is delivered,
8 issued for delivery or renewed in this state that offers
9 coverage for ~~[prosthetics and]~~ prosthetic devices, custom
10 orthotic devices or complex rehabilitation technology devices
11 shall include language describing an ~~[insured's]~~ enrollee's
12 rights pursuant to Subsections C and D of this section in its
13 evidence of coverage and any benefit denial letters.

14 F. Prosthetic ~~[and]~~ device, custom orthotic device
15 or complex rehabilitation technology device coverage shall not
16 be subject to separate financial requirements that are
17 applicable only with respect to that coverage. An individual
18 or group health ~~[plan]~~ maintenance organization contract may
19 impose cost sharing on prosthetic ~~[or]~~ devices, custom orthotic
20 devices or complex rehabilitation technology devices; provided
21 that any cost-sharing requirements shall not be more
22 restrictive than the cost-sharing requirements applicable to
23 the plan's coverage for inpatient physician and surgical
24 services.

25 G. An individual or group health ~~[plan]~~ maintenance

1 organization contract that provides coverage for [~~prosthetic or~~
 2 ~~orthotic~~] services related to prosthetic devices, custom
 3 orthotic devices or complex rehabilitation technology devices
 4 shall ensure access to medically necessary clinical care and to
 5 prosthetic [~~and~~] devices, custom orthotic devices or complex
 6 rehabilitation technology devices and technology from not less
 7 than two distinct prosthetic [~~and~~] device, custom orthotic
 8 device or complex rehabilitation technology device providers in
 9 the managed care plan's provider network located in the state.
 10 In the event that medically necessary covered [~~orthotics and~~
 11 ~~prosthetics~~] prosthetic devices, custom orthotic devices or
 12 complex rehabilitation technology devices are not available
 13 from an in-network provider, the [~~insurer~~] health maintenance
 14 organization shall provide processes to refer a member to an
 15 out-of-network provider and shall fully reimburse the out-of-
 16 network provider at a mutually agreed upon rate less member
 17 cost sharing determined on an in-network basis.

18 H. If coverage for prosthetic [~~or~~] devices, custom
 19 orthotic devices or complex rehabilitation technology devices
 20 is provided, payment shall be made for the replacement of a
 21 prosthetic [~~or~~] device, a custom orthotic device or a complex
 22 rehabilitation technology device or for the replacement of any
 23 part of such devices, without regard to continuous use or
 24 useful lifetime restrictions, if an ordering health care
 25 provider determines that the provision of a replacement device,

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1 or a replacement part of such a device, is necessary because of
2 any of the following:

3 (1) a change in the physiological condition of
4 the patient;

5 (2) an irreparable change in the condition of
6 the device or in a part of the device; or

7 (3) the condition of the device or the part of
8 the device requires repairs, and the cost of such repairs would
9 be more than sixty percent of the cost of a replacement device
10 or of the part being replaced.

11 I. Coverage for complex rehabilitation technology
12 devices shall be based on an enrollee's specific medical,
13 physical, functional and environmental needs and capacities to
14 engage in normal life activities and shall allow an enrollee to
15 obtain more than one wheelchair or mobility device to be used
16 for the following purposes:

17 (1) for daily use that meets the enrollee's
18 mobility and positioning needs; or

19 (2) to enable the enrollee to participate in
20 physical activities necessary to achieve or maintain health and
21 support functional independence.

22 J. A complex rehabilitation technology device that
23 is a manual or power wheelchair shall only be covered pursuant
24 to this section if the:

25 (1) enrollee has undergone a complex

1 rehabilitation technology device evaluation conducted by a
 2 licensed physical therapist or occupational therapist who has
 3 no financial relationship with the supplier of the complex
 4 rehabilitation technology device; and

5 (2) complex rehabilitation technology device
 6 is provided by a complex rehabilitation technology device
 7 supplier that:

8 (a) employs at least one assistive
 9 technology professional certified by the rehabilitation
 10 engineering and assistive technology society of North America
 11 who specialized in seating, positioning and mobility and has
 12 direct, in-person involvement in the wheelchair selection for
 13 the insured; and

14 (b) makes at least one qualified complex
 15 rehabilitation technology device service technician available
 16 in each service area served by the supplier to service and
 17 repair devices that are furnished by the supplier.

18 ~~[I.]~~ K. Confirmation from a prescribing health care
 19 provider may be required if the prosthetic ~~[O.]~~ device, custom
 20 orthotic device or complex rehabilitation technology device or
 21 part being replaced is less than three years old.

22 ~~[J.]~~ L. The provisions of this section do not apply
 23 to excepted benefits plans subject to the Short-Term Health
 24 Plan and Excepted Benefit Act.

25 M. For the purposes of this section, "complex

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1 rehabilitation technology device" means a subset of durable
2 medical equipment that:

3 (1) consists of complex rehabilitation manual
4 and power wheelchairs and mobility devices, including
5 specialized seating and positioning items, options and
6 accessories;

7 (2) is designed, manufactured, configured,
8 adjusted or modified for a specific person to meet that
9 person's unique medical, physical, functional and environmental
10 needs and capacities;

11 (3) is generally not useful to a person in the
12 absence of a disability, illness, injury or other medical
13 condition; and

14 (4) requires specialized services to ensure
15 appropriate use of the item, including:

16 (a) an evaluation of the features and
17 functions necessary to assist the person who will use the
18 device; or

19 (b) configuring, fitting, programming,
20 adjusting or adapting the particular device for use by a
21 person."

22 SECTION 6. Section 59A-47-66 NMSA 1978 (being Laws 2023,
23 Chapter 196, Section 6) is amended to read:

24 "59A-47-66. MEDICAL NECESSITY AND NONDISCRIMINATION
25 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]

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1 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX
 2 REHABILITATION TECHNOLOGY DEVICES.--

3 A. An individual or group health care plan that is
 4 delivered, issued for delivery or renewed in this state that
 5 covers essential health benefits and covers prosthetic ~~and~~
 6 devices, custom orthotic devices or complex rehabilitation
 7 technology devices shall consider these benefits habilitative
 8 or rehabilitative benefits for purposes of state or federal
 9 requirements on essential health benefits coverage.

10 B. When performing a utilization review for a
 11 request for coverage of prosthetic ~~or~~ device, custom orthotic
 12 device or complex rehabilitation technology device benefits,
 13 ~~[an insurer]~~ a health care plan shall apply the most recent
 14 version of evidence-based treatment and fit criteria as
 15 recognized by relevant clinical specialists or their
 16 organizations. Such standards may be named by the
 17 superintendent in rule.

18 C. ~~[An insurer]~~ A health care plan shall render
 19 utilization review determinations in a nondiscriminatory manner
 20 and shall not deny coverage for habilitative or rehabilitative
 21 benefits, including ~~[prosthetics or orthotics]~~ prosthetic
 22 devices, custom orthotic devices or complex rehabilitation
 23 technology devices, solely based on ~~[an insured's]~~ a
 24 subscriber's actual or perceived disability.

25 D. ~~[An insurer]~~ A health care plan shall not deny a

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1 prosthetic ~~[or]~~ device, a custom orthotic device or a complex
2 rehabilitation technology device benefit for ~~[an individual~~
3 ~~with limb loss, or absence]~~ a person with limb loss, limb
4 absence or mobility limitation that would otherwise be covered
5 for a non-disabled person seeking medical or surgical
6 intervention to restore or maintain the ability to perform the
7 same physical activity. Covered benefits shall be provided for
8 more than one prosthetic device, orthotic device or complex
9 rehabilitation technology device when medically necessary, but
10 shall include no more than three prosthetic devices or custom
11 orthotic devices per affected limb per covered person and no
12 more than two complex rehabilitation technology devices per
13 covered person during any three-year period. A health care
14 plan shall cover:

15 (1) the most appropriate prosthetic device,
16 custom orthotic device or complex rehabilitation technology
17 device determined to be medically necessary by the subscriber's
18 treating physician and associated medical providers to restore
19 or maintain the ability to complete activities of daily living
20 or essential job-related activities. This coverage shall
21 include all services and supplies necessary for the effective
22 use of a prosthetic device, a custom orthotic device or a
23 complex rehabilitation technology device, including:

24 (a) formulation of its design,
25 fabrication, material and component selection, measurements,

1 fittings and static and dynamic alignments;

2 (b) all materials and components
3 necessary to use it;

4 (c) instructing the subscriber in the
5 use of it; and

6 (d) the repair and replacement of it;

7 (2) a prosthetic device, a custom orthotic
8 device or a complex rehabilitation technology device determined
9 by the subscriber's provider to be the most appropriate model
10 that meets the medical needs of the subscriber for performing
11 physical activities, including running, biking and swimming,
12 and to maximize the subscriber's upper limb function. This
13 coverage shall include all services and supplies necessary for
14 the effective use of a prosthetic device, a custom orthotic
15 device or a complex rehabilitation technology device,

16 including:

17 (a) formulation of its design,
18 fabrication, material and component selection, measurements,
19 fittings and static and dynamic alignments;

20 (b) all materials and components
21 necessary to use it;

22 (c) instructing the subscriber in the
23 use of it; and

24 (d) the repair and replacement of it;

25 and

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1 (3) a prosthetic device, orthotic device or
2 complex rehabilitation technology device determined by the
3 subscriber's prosthetic or orthotic care provider or complex
4 rehabilitation technology device accredited supplier to be the
5 most appropriate prosthetic device, orthotic device or complex
6 rehabilitation technology device that meets the medical needs
7 of the subscriber for purposes of showering or bathing.

8 E. A health [~~benefits~~] care plan that is delivered,
9 issued for delivery or renewed in this state that offers
10 coverage for [~~prosthetics and~~] prosthetic devices, custom
11 orthotic devices or complex rehabilitation technology devices
12 shall include language describing an insured's rights pursuant
13 to Subsections C and D of this section in its evidence of
14 coverage and any benefit denial letters.

15 F. Prosthetic [~~and~~] device, custom orthotic device
16 or complex rehabilitation technology device coverage shall not
17 be subject to separate financial requirements that are
18 applicable only with respect to that coverage. An individual
19 or group health care plan may impose cost sharing on prosthetic
20 [~~or~~] devices, custom orthotic devices or complex rehabilitation
21 technology devices; provided that any cost-sharing requirements
22 shall not be more restrictive than the cost-sharing
23 requirements applicable to the plan's coverage for inpatient
24 physician and surgical services.

25 G. An individual or group health care plan that

1 provides coverage for [~~prosthetic or orthotic~~] services related
 2 to prosthetic devices, custom orthotic devices or complex
 3 rehabilitation technology devices shall ensure access to
 4 medically necessary clinical care and to prosthetic [~~and~~]
 5 devices, custom orthotic devices or complex rehabilitation
 6 technology devices and technology from not less than two
 7 distinct prosthetic [~~and~~] device, custom orthotic device or
 8 complex rehabilitation technology device providers in the
 9 [~~managed~~] health care plan's provider network located in the
 10 state. In the event that medically necessary covered
 11 [~~orthotics and prosthetics~~] prosthetic devices, custom orthotic
 12 devices or complex rehabilitation technology devices are not
 13 available from an in-network provider, the [~~insurer~~] health
 14 care plan shall provide processes to refer a [~~member~~]
 15 subscriber to an out-of-network provider and shall fully
 16 reimburse the out-of-network provider at a mutually agreed upon
 17 rate less [~~member~~] subscriber cost sharing determined on an in-
 18 network basis.

19 H. If coverage for prosthetic [~~or~~] devices, custom
 20 orthotic devices or complex rehabilitation technology devices
 21 is provided, payment shall be made for the replacement of a
 22 prosthetic [~~or~~] device, a custom orthotic device or a complex
 23 rehabilitation technology device or for the replacement of any
 24 part of such devices, without regard to continuous use or
 25 useful lifetime restrictions, if an ordering health care

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1 provider determines that the provision of a replacement device,
2 or a replacement part of such a device, is necessary because of
3 any of the following:

4 (1) a change in the physiological condition of
5 the patient;

6 (2) an irreparable change in the condition of
7 the device or in a part of the device; or

8 (3) the condition of the device or the part of
9 the device requires repairs, and the cost of such repairs would
10 be more than sixty percent of the cost of a replacement device
11 or of the part being replaced.

12 I. Coverage for complex rehabilitation technology
13 devices shall be based on a subscriber's specific medical,
14 physical, functional and environmental needs and capacities to
15 engage in normal life activities and shall allow a subscriber
16 to obtain more than one wheelchair or mobility device to be
17 used for the following purposes:

18 (1) for daily use that meets the subscriber's
19 mobility and positioning needs; or

20 (2) to enable the subscriber to participate in
21 physical activities necessary to achieve or maintain health and
22 support functional independence.

23 J. A complex rehabilitation technology device that
24 is a manual or power wheelchair shall only be covered pursuant
25 to this section if the:

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1 (1) subscriber has undergone a complex
 2 rehabilitation technology device evaluation conducted by a
 3 licensed physical therapist or occupational therapist who has
 4 no financial relationship with the supplier of the complex
 5 rehabilitation technology device; and

6 (2) complex rehabilitation technology device
 7 is provided by a complex rehabilitation technology device
 8 supplier that:

9 (a) employs at least one assistive
 10 technology professional certified by the rehabilitation
 11 engineering and assistive technology society of North America
 12 who specialized in seating, positioning and mobility and has
 13 direct, in-person involvement in the wheelchair selection for
 14 the subscriber; and

15 (b) makes at least one qualified complex
 16 rehabilitation technology device service technician available
 17 in each service area served by the supplier to service and
 18 repair devices that are furnished by the supplier.

19 ~~[I.]~~ K. Confirmation from a prescribing health care
 20 provider may be required if the prosthetic ~~[O.]~~ device, custom
 21 orthotic device or complex rehabilitation technology device or
 22 part being replaced is less than three years old.

23 ~~[J.]~~ L. The provisions of this section do not apply
 24 to excepted benefits plans subject to the Short-Term Health
 25 Plan and Excepted Benefit Act.

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1 M. For the purposes of this section, "complex
2 rehabilitation technology device" means a subset of durable
3 medical equipment that:

4 (1) consists of complex rehabilitation manual
5 and power wheelchairs and mobility devices, including
6 specialized seating and positioning items, options and
7 accessories;

8 (2) is designed, manufactured, configured,
9 adjusted or modified for a specific person to meet that
10 person's unique medical, physical, functional and environmental
11 needs and capacities;

12 (3) is generally not useful to a person in the
13 absence of a disability, illness, injury or other medical
14 condition; and

15 (4) requires specialized services to ensure
16 appropriate use of the item, including:

17 (a) an evaluation of the features and
18 functions necessary to assist the person who will use the
19 device; or

20 (b) configuring, fitting, programming,
21 adjusting or adapting the particular device for use by a
22 person."

23 SECTION 7. APPLICABILITY.--The provisions of this act
24 apply to policies, plans, contracts and certificates delivered
25 or issued for delivery or renewed, extended or amended in this

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1 state on or after January 1, 2027.

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