

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

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

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

24 ~~[F.]~~ D. Prosthetic ~~[and]~~ device, custom orthotic  
25 device or complex rehabilitation technology device coverage

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

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

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

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1 determined on an in-network basis.

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

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

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

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

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

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

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

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

15 K. Coverage for complex rehabilitation technology  
 16 devices shall be based on an enrollee's specific medical,  
 17 physical, functional and environmental needs and capacities to  
 18 engage in normal life activities and shall allow an enrollee to  
 19 obtain more than one complex rehabilitation technology device,  
 20 but no more than two complex rehabilitation technology devices  
 21 per covered person during any three-year period. A group  
 22 health plan shall cover complex rehabilitation technology  
 23 devices:

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

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

4                   L. A complex rehabilitation technology device that  
5 is a manual or power wheelchair shall only be covered pursuant  
6 to this section if the:

7                   (1) enrollee has undergone a complex  
8 rehabilitation technology device evaluation conducted by a  
9 licensed physical therapist or occupational therapist who has  
10 no financial relationship with the supplier of the complex  
11 rehabilitation technology device; and

12                   (2) complex rehabilitation technology device  
13 is provided by a complex rehabilitation technology device  
14 supplier that:

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

21                   (b) makes at least one qualified complex  
22 rehabilitation technology device service technician available  
23 in each service area served by the supplier to service and  
24 repair devices that are furnished by the supplier.

25                   M. Confirmation from a prescribing health care

1 provider may be required if the prosthetic [~~or~~] device, custom  
 2 orthotic device or complex rehabilitation technology device or  
 3 part being replaced is less than three years old.

4 N. A group health plan subject to the Health Care  
 5 Purchasing Act shall not discriminate against individuals based  
 6 on disability, including limb loss, absence or malformation.

7 O. For the purposes of this section, "complex  
 8 rehabilitation technology device" means a subset of durable  
 9 medical equipment that:

10 (1) consists of complex rehabilitation manual  
 11 and power wheelchairs and mobility devices, including  
 12 specialized seating and positioning items, options and  
 13 accessories;

14 (2) is designed, manufactured, configured,  
 15 adjusted or modified for a specific person to meet that  
 16 person's unique medical, physical, functional and environmental  
 17 needs and capacities;

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

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

23 (a) an evaluation of the features and  
 24 functions necessary to assist the person who will use the  
 25 device; or

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1 rehabilitation technology device benefits; and

2 (4) failure to apply medical necessity review  
3 standards developed by the professional association with the  
4 most relevant clinical specialty when conducting utilization  
5 management review or processing appeals regarding benefit  
6 denial.

7 B. For purposes of this section:

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

10 (a) consists of complex rehabilitation  
11 manual and power wheelchairs and mobility devices, including  
12 specialized seating and positioning items, options and  
13 accessories;

14 (b) is designed, manufactured,  
15 configured, adjusted or modified for a specific person to meet  
16 that person's unique medical, physical, functional and  
17 environmental needs and capacities;

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

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

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1 use by a person; and

2                   (2) "health benefits plan" means a policy or  
3 agreement entered into, offered or issued by a health insurance  
4 carrier to provide, deliver, arrange for, pay for or reimburse  
5 the costs of health care services; provided that "health  
6 benefits plan" does not include the following:

7                   ~~[(1)]~~ (a) an accident-only policy;  
8                   ~~[(2)]~~ (b) a credit-only policy;  
9                   ~~[(3)]~~ (c) a long- or short-term care or  
10 disability income policy;

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

14                   ~~[(6)]~~ (f) coverage provided pursuant to  
15 Title 19 of the federal Social Security Act and the Public  
16 Assistance Act;

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

20                   ~~[(8)]~~ (h) a fixed or hospital indemnity  
21 policy;

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

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

24                   ~~[(11)]~~ (k) a workers' compensation  
25 policy;

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

1                                    [~~(12)~~] (1) an automobile medical payment  
2 policy; or

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

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

7            "59A-22-62. MEDICAL NECESSITY AND NONDISCRIMINATION  
8 STANDARDS FOR COVERAGE OF [~~PROSTHETICS OR ORTHOTICS~~] PROSTHETIC  
9 DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX REHABILITATION  
10 TECHNOLOGY DEVICES.--

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

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

25                            C. An insurer shall render utilization review

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1 determinations in a nondiscriminatory manner and shall not deny  
2 coverage for habilitative or rehabilitative benefits, including  
3 ~~[prosthetics or orthotics]~~ prosthetic devices, custom orthotic  
4 devices or complex rehabilitation technology devices, solely on  
5 the basis of an insured's actual or perceived disability.

6 D. An insurer shall not deny a prosthetic ~~[or]~~  
7 device, a custom orthotic device or a complex rehabilitation  
8 technology device benefit for ~~[an individual with limb loss or~~  
9 ~~absence]~~ a person with limb loss, limb absence or mobility  
10 limitation that would otherwise be covered for a non-disabled  
11 person seeking medical or surgical intervention to restore or  
12 maintain the ability to perform the same physical activity.

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

20 F. Prosthetic ~~[and]~~ device, custom orthotic device  
21 or complex rehabilitation technology device coverage shall not  
22 be subject to separate financial requirements that are  
23 applicable only with respect to that coverage. An individual  
24 health plan may impose cost sharing on prosthetic ~~[or]~~ devices,  
25 custom orthotic devices or complex rehabilitation technology

1 devices; provided that any cost-sharing requirements shall not  
 2 be more restrictive than the cost-sharing requirements  
 3 applicable to the plan's coverage for inpatient physician and  
 4 surgical services.

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

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

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1 prosthetic [~~or~~] device, a custom orthotic device or a complex  
2 rehabilitation technology device or for the replacement of any  
3 part of such devices, without regard to continuous use or  
4 useful lifetime restrictions, if an ordering health care  
5 provider determines that the provision of a replacement device,  
6 or a replacement part of such a device, is necessary because of  
7 any of the following:

8 (1) a change in the physiological condition of  
9 the patient;

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

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

16 I. Covered benefits for prosthetic devices and  
17 custom orthotic devices shall provide for more than one  
18 prosthetic device or custom orthotic device when medically  
19 necessary, but shall include no more than three prosthetic  
20 devices or custom orthotic devices per affected limb per  
21 covered person during any three-year period. An individual  
22 health plan shall cover:

23 (1) the most appropriate prosthetic device or  
24 custom orthotic device determined to be medically necessary by  
25 the insured's treating physician and associated medical

1 providers to restore or maintain the ability to complete  
2 activities of daily living or essential job-related activities.  
3 This coverage shall include all services and supplies necessary  
4 for the effective use of a prosthetic device or a custom  
5 orthotic device, including:

6 (a) formulation of the device's design,  
7 fabrication, material and component selection, measurements,  
8 fittings and static and dynamic alignments;

9 (b) all materials and components  
10 necessary to use the device;

11 (c) instructing the insured in the use  
12 of the device; and

13 (d) the repair and replacement of the  
14 device;

15 (2) a prosthetic device or a custom orthotic  
16 device determined by the insured's provider to be the most  
17 appropriate model that meets the medical needs of the insured  
18 for performing physical activities, including running, biking  
19 and swimming, and to maximize the insured's upper limb  
20 function. This coverage shall include all services and  
21 supplies necessary for the effective use of a prosthetic device  
22 or a custom orthotic device, including:

23 (a) formulation of the device's design,  
24 fabrication, material and component selection, measurements,  
25 fittings and static and dynamic alignments;

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1                   (b) all materials and components  
2 necessary to use the device;

3                   (c) instructing the insured in the use  
4 of the device; and

5                   (d) the repair and replacement of the  
6 device; and

7                   (3) a prosthetic device or custom orthotic  
8 device determined by the insured's prosthetic or orthotic care  
9 provider to be the most appropriate prosthetic device or custom  
10 orthotic device that meets the medical needs of the insured for  
11 purposes of showering or bathing.

12                   J. Coverage for complex rehabilitation technology  
13 devices shall be based on an insured's specific medical,  
14 physical, functional and environmental needs and capacities to  
15 engage in normal life activities and shall allow an insured to  
16 obtain more than one complex rehabilitation technology device,  
17 but no more than two complex rehabilitation technology devices  
18 per covered person during any three-year period. An individual  
19 health plan shall cover complex rehabilitation technology  
20 devices:

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

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

1           K. A complex rehabilitation technology device that  
 2 is a manual or power wheelchair shall only be covered pursuant  
 3 to this section if the:

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

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

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

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

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

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1           ~~[J-]~~ M. The provisions of this section do not apply  
2 to excepted benefits plans subject to the Short-Term Health  
3 Plan and Excepted Benefit Act.

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

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

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

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

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

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

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

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

3           "59A-23-32. MEDICAL NECESSITY AND NONDISCRIMINATION  
4 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]  
5 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX  
6 REHABILITATION TECHNOLOGY DEVICES.--

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

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

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

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

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1           G. A group health plan that provides coverage for  
 2 ~~[prosthetic or orthotic]~~ services related to prosthetic  
 3 devices, custom orthotic devices or complex rehabilitation  
 4 technology devices shall ensure access to medically necessary  
 5 clinical care and to prosthetic ~~[and]~~ devices, custom orthotic  
 6 devices or complex rehabilitation technology devices and  
 7 technology from not less than two distinct prosthetic ~~[and]~~  
 8 device, custom orthotic device or complex rehabilitation  
 9 technology device providers in the ~~[managed care]~~ plan's  
 10 provider network located in the state. In the event that  
 11 medically necessary covered ~~[orthotics and prosthetics]~~  
 12 prosthetic devices, custom orthotic devices or complex  
 13 rehabilitation technology devices are not available from an in-  
 14 network provider, the insurer shall provide processes to refer  
 15 ~~[a member]~~ an insured to an out-of-network provider and shall  
 16 fully reimburse the out-of-network provider at a mutually  
 17 agreed upon rate less ~~[member]~~ insured cost sharing determined  
 18 on an in-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. Covered benefits for prosthetic devices and  
13 custom orthotic devices shall provide for more than one  
14 prosthetic device or custom orthotic device when medically  
15 necessary, but shall include no more than three prosthetic  
16 devices or custom orthotic devices per affected limb per  
17 covered person during any three-year period. A group health  
18 plan shall cover:

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

1 orthotic device, including:

2 (a) formulation of the device's design,  
3 fabrication, material and component selection, measurements,  
4 fittings and static and dynamic alignments;

5 (b) all materials and components  
6 necessary to use the device;

7 (c) instructing the insured in the use  
8 of the device; and

9 (d) the repair and replacement of the  
10 device;

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

19 (a) formulation of the device's design,  
20 fabrication, material and component selection, measurements,  
21 fittings and static and dynamic alignments;

22 (b) all materials and components  
23 necessary to use the device;

24 (c) instructing the insured in the use  
25 of the device; and

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1                                   (d) the repair and replacement of the  
2 device; and

3                                   (3) a prosthetic device or custom orthotic  
4 device determined by the insured's prosthetic or orthotic care  
5 provider to be the most appropriate prosthetic device or custom  
6 orthotic device that meets the medical needs of the insured for  
7 purposes of showering or bathing.

8                                   J. Coverage for complex rehabilitation technology  
9 devices shall be based on an insured's specific medical,  
10 physical, functional and environmental needs and capacities to  
11 engage in normal life activities and shall allow an insured to  
12 obtain more than one complex rehabilitation technology device,  
13 but no more than two complex rehabilitation technology devices  
14 per covered person during any three-year period. A group  
15 health plan shall cover complex rehabilitation technology  
16 devices:

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                                   K. 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

underscored material = new  
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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.]~~ L. 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.]~~ M. 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 N. 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 5. Section 59A-46-72 NMSA 1978 (being Laws 2023,  
23 Chapter 196, Section 5) is amended to read:

24 "59A-46-72. MEDICAL NECESSITY AND NONDISCRIMINATION  
25 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]

.233748.4

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

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

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

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

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1           D. ~~[An insurer]~~ A health maintenance organization  
2 shall not deny a prosthetic ~~[or]~~ device, a custom orthotic  
3 device a or complex rehabilitation technology device benefit  
4 for ~~[an individual with limb loss or absence]~~ a person with  
5 limb loss, limb absence or mobility limitation that would  
6 otherwise be covered for a non-disabled person seeking medical  
7 or surgical intervention to restore or maintain the ability to  
8 perform the same physical activity.

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

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

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underscored material = new  
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1 the plan's coverage for inpatient physician and surgical  
2 services.

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

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

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

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

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

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

15 I. Covered benefits for prosthetic devices and  
16 custom orthotic devices shall provide for more than one  
17 prosthetic device or custom orthotic device when medically  
18 necessary, but shall include no more than three prosthetic  
19 devices or custom orthotic devices per affected limb per  
20 covered person during any three-year period. An individual or  
21 group health maintenance organization contract shall cover:

22 (1) the most appropriate prosthetic device or  
23 custom orthotic device determined to be medically necessary by  
24 the enrollee's treating physician and associated medical  
25 providers to restore or maintain the ability to complete

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1 activities of daily living or essential job-related activities.  
 2 This coverage shall include all services and supplies necessary  
 3 for the effective use of a prosthetic device or a custom  
 4 orthotic device, including:

5 (a) formulation of the device's design,  
 6 fabrication, material and component selection, measurements,  
 7 fittings and static and dynamic alignments;

8 (b) all materials and components  
 9 necessary to use the device;

10 (c) instructing the enrollee in the use  
 11 of the device; and

12 (d) the repair and replacement of the  
 13 device;

14 (2) a prosthetic device or a custom orthotic  
 15 device determined by the enrollee's provider to be the most  
 16 appropriate model that meets the medical needs of the enrollee  
 17 for performing physical activities, including running, biking  
 18 and swimming, and to maximize the enrollee's upper limb  
 19 function. This coverage shall include all services and  
 20 supplies necessary for the effective use of a prosthetic device  
 21 or a custom orthotic device, including:

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

25 (b) all materials and components

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1 necessary to use the device;

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

4 (d) the repair and replacement of the  
5 device; and

6 (3) a prosthetic device or custom orthotic  
7 device determined by the enrollee's prosthetic or orthotic care  
8 provider to be the most appropriate prosthetic device or custom  
9 orthotic device that meets the medical needs of the enrollee  
10 for purposes of showering or bathing.

11 J. 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 complex rehabilitation technology device,  
16 but no more than two complex rehabilitation technology devices  
17 per covered person during any three-year period. An individual  
18 or group health maintenance organization contract shall cover  
19 complex rehabilitation technology devices:

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 K. A complex rehabilitation technology device that

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

25 ~~[J.]~~ M. The provisions of this section do not apply

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1 to excepted benefits plans subject to the Short-Term Health  
2 Plan and Excepted Benefit Act.

3 N. 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 6. Section 59A-47-66 NMSA 1978 (being Laws 2023,

.233748.4

1 Chapter 196, Section 6) is amended to read:

2 "59A-47-66. MEDICAL NECESSITY AND NONDISCRIMINATION  
3 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]  
4 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX  
5 REHABILITATION TECHNOLOGY DEVICES.--

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

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

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

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1 technology devices, solely based on ~~[an insured's]~~ a  
2 subscriber's actual or perceived disability.

3 D. ~~[An insurer]~~ A health care plan shall not deny a  
4 prosthetic ~~[or]~~ device, a custom orthotic device or a complex  
5 rehabilitation technology device benefit for ~~[an individual~~  
6 ~~with limb loss, or absence]~~ a person with limb loss, limb  
7 absence or mobility limitation that would otherwise be covered  
8 for a non-disabled person seeking medical or surgical  
9 intervention to restore or maintain the ability to perform the  
10 same physical activity.

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

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

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underscored material = new  
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1 requirements applicable to the plan's coverage for inpatient  
2 physician and surgical services.

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

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

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

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

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

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

15 I. Covered benefits for prosthetic devices and  
16 custom orthotic devices shall provide for more than one  
17 prosthetic device or custom orthotic device when medically  
18 necessary, but shall include no more than three prosthetic  
19 devices or custom orthotic devices per affected limb per  
20 covered person during any three-year period. A health care  
21 plan shall cover:

22 (1) the most appropriate prosthetic device or  
23 custom orthotic device determined to be medically necessary by  
24 the subscriber's treating physician and associated medical  
25 providers to restore or maintain the ability to complete

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1 activities of daily living or essential job-related activities.  
2 This coverage shall include all services and supplies necessary  
3 for the effective use of a prosthetic device or a custom  
4 orthotic device, including:

5 (a) formulation of the device's design,  
6 fabrication, material and component selection, measurements,  
7 fittings and static and dynamic alignments;

8 (b) all materials and components  
9 necessary to use the device;

10 (c) instructing the subscriber in the  
11 use of the device; and

12 (d) the repair and replacement of the  
13 device;

14 (2) a prosthetic device or a custom orthotic  
15 device determined by the subscriber's provider to be the most  
16 appropriate model that meets the medical needs of the  
17 subscriber for performing physical activities, including  
18 running, biking and swimming, and to maximize the subscriber's  
19 upper limb function. This coverage shall include all services  
20 and supplies necessary for the effective use of a prosthetic  
21 device or a custom orthotic device, including:

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

25 (b) all materials and components

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1 necessary to use the device;

2 (c) instructing the subscriber in the  
3 use of the device; and

4 (d) the repair and replacement of the  
5 device; and

6 (3) a prosthetic device or custom orthotic  
7 device determined by the subscriber's prosthetic or orthotic  
8 care provider to be the most appropriate prosthetic device or  
9 custom orthotic device that meets the medical needs of the  
10 subscriber for purposes of showering or bathing.

11 J. Coverage for complex rehabilitation technology  
12 devices shall be based on a subscriber's specific medical,  
13 physical, functional and environmental needs and capacities to  
14 engage in normal life activities and shall allow a subscriber  
15 to obtain more than one complex rehabilitation technology  
16 device, but no more than two complex rehabilitation technology  
17 devices per covered person during any three-year period. A  
18 health care plan shall cover complex rehabilitation technology  
19 devices:

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

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

25 K. A complex rehabilitation technology device that

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

3 (1) subscriber 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 subscriber; 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 ~~[I.]~~ L. Confirmation from a prescribing health care  
 22 provider may be required if the prosthetic ~~[O.]~~ device, custom  
 23 orthotic device or complex rehabilitation technology device or  
 24 part being replaced is less than three years old.

25 ~~[J.]~~ M. The provisions of this section do not apply

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1 to excepted benefits plans subject to the Short-Term Health  
2 Plan and Excepted Benefit Act.

3 N. 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 7. APPLICABILITY.--The provisions of this act

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1 apply to policies, plans, contracts and certificates delivered  
2 or issued for delivery or renewed, extended or amended in this  
3 state on or after January 1, 2027.

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