

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
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~~

~~custom orthotics~~] prosthetic devices, custom orthotic devices
and complex rehabilitation technology devices that is at least
 equivalent to that coverage currently provided by the federal
 medicare program and no less favorable than the terms and
 conditions that the group health plan offers for medical and
 surgical benefits. Covered benefits shall be provided for more
than one prosthetic device or custom orthotic device when
medically necessary, but shall include no more than three
prosthetic devices or custom orthotic devices per affected limb
per covered person; provided that if after three years, a
prosthetic device or custom orthotic device is no longer the
appropriate device to meet the enrollee's needs for the
enrollee's preferred physical activity, coverage and payment
for new or replacement devices shall not be limited to three
prosthetic or custom orthotic devices per affected limb per
covered person. [B.] A group health plan shall cover:

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

1 [~~(1)~~] (a) formulation of its design,
 2 fabrication, material and component selection, measurements,
 3 fittings and static and dynamic alignments;
 4 [~~(2)~~] (b) all materials and components
 5 necessary to use it;
 6 [~~(3)~~] (c) instructing the enrollee in
 7 the use of it; and
 8 [~~(4)~~] (d) the repair and replacement of
 9 it;

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

19 [~~(1)~~] (a) formulation of its design,
 20 fabrication, material and component selection, measurements,
 21 fittings and static and dynamic alignments;
 22 [~~(2)~~] (b) all materials and components
 23 necessary to use it;
 24 [~~(3)~~] (c) instructing the enrollee in
 25 the use of it; and

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

3 (3) a prosthetic device or custom orthotic
4 device determined by the enrollee'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 enrollee
7 for purposes of showering or bathing.

8 B. Coverage for complex rehabilitation technology
9 devices shall be based on an enrollee's specific medical,
10 physical, functional and environmental needs and capacities to
11 engage in normal life activities and shall allow an enrollee to
12 obtain more than one complex rehabilitation technology device,
13 but no more than two complex rehabilitation technology devices
14 per covered person; provided that if after three years, a
15 complex rehabilitation technology device is no longer the
16 appropriate device to meet the enrollee's needs for the
17 enrollee's preferred physical activity, coverage and payment
18 for new or replacement devices shall not be limited to two
19 complex rehabilitation technology devices per covered person.

20 A group health plan shall cover:

21 (1) complex rehabilitation technology devices
22 for daily use that meet the enrollee's mobility and positioning
23 needs;

24 (2) complex rehabilitation technology devices
25 to enable the enrollee to participate in physical activities

necessary to achieve or maintain health goals; and

(3) all services and supplies necessary for the effective use of a complex rehabilitation technology device, including:

(a) configuring, fitting, programming, adjusting or adapting the particular device for use by a person, including the formulation of the device's design, fabrication, material and component selection and measurements;

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

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

(d) the repair and replacement of the device.

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

~~[E.]~~ D. Prosthetic ~~[and]~~ device, custom orthotic device or complex rehabilitation technology device coverage shall be comparable to coverage for other medical and surgical benefits under the group health plan, including restorative internal devices such as internal prosthetic devices, and shall

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1 not be subject to spending limits or lifetime restrictions.

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

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

22 ~~[H.]~~ G. In the event that medically necessary
23 covered ~~[orthotics and prosthetics]~~ prosthetic devices, custom
24 orthotic devices or complex rehabilitation technology devices
25 are not available from an in-network provider, the insurer

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1 shall provide processes to refer a member to an out-of-network
 2 provider and shall fully reimburse the out-of-network provider
 3 at a mutually agreed upon rate less member cost sharing
 4 determined on an in-network basis.

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

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

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

25 ~~[L.]~~ K. If coverage for prosthetic ~~[or]~~ devices,

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

10 (1) a change in the physiological condition of
 11 the patient;

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

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

18 L. 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) enrollee 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

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

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

21 O. As used in this section, "complex rehabilitation
 22 technology device" means a subset of durable medical equipment
 23 that:

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

specialized seating and positioning items, options and accessories;

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

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

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

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

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

SECTION 2. Section 59A-16-21.4 NMSA 1978 (being Laws 2023, Chapter 196, Section 2) is amended to read:

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

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

(1) canceling or changing the premiums,

1 benefits or conditions of a health benefits plan on the basis
2 of an insured's actual or perceived disability;

3 (2) denying a prosthetic ~~[or]~~ device, a custom
4 orthotic device or a complex rehabilitation technology device
5 benefit for [an individual with limb loss or absence] a person
6 with limb loss, limb absence or mobility limitation that would
7 otherwise be covered for a non-disabled person seeking medical
8 or surgical intervention to restore or maintain the ability to
9 perform the same physical activity;

10 (3) failure to apply the most recent version
11 of treatment and fit criteria developed by the professional
12 association with the most relevant clinical specialty when
13 performing a utilization review for a request for coverage of
14 prosthetic ~~[or]~~ device, custom orthotic device or complex
15 rehabilitation technology device benefits; and

16 (4) failure to apply medical necessity review
17 standards developed by the professional association with the
18 most relevant clinical specialty when conducting utilization
19 management review or processing appeals regarding benefit
20 denial.

21 B. For purposes of this section:

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

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

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

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

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

10 (d) requires specialized services to
11 ensure appropriate use of the item, including: 1) an
12 evaluation of the features and functions necessary to assist
13 the person who will use the device; or 2) configuring, fitting,
14 programming, adjusting or adapting the particular device for
15 use by a person; and

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

21 [~~(1)~~] (a) an accident-only policy;
22 [~~(2)~~] (b) a credit-only policy;
23 [~~(3)~~] (c) a long- or short-term care or
24 disability income policy;
25 [~~(4)~~] (d) a specified disease policy;

1 ~~[(5)]~~ (e) coverage provided pursuant to
2 Title 18 of the federal Social Security Act, as amended;

3 ~~[(6)]~~ (f) coverage provided pursuant to
4 Title 19 of the federal Social Security Act and the Public
5 Assistance Act;

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

9 ~~[(8)]~~ (h) a fixed or hospital indemnity
10 policy;

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

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

13 ~~[(11)]~~ (k) a workers' compensation
14 policy;

15 ~~[(12)]~~ (l) an automobile medical payment
16 policy; or

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

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

21 "59A-22-62. MEDICAL NECESSITY AND NONDISCRIMINATION
22 STANDARDS FOR COVERAGE OF ~~[PROSTHETICS OR ORTHOTICS]~~ PROSTHETIC
23 DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX REHABILITATION
24 TECHNOLOGY DEVICES.--

25 A. An individual health plan that is delivered,

1 issued for delivery or renewed in this state that offers
 2 coverage for prosthetic ~~[and]~~ devices, custom orthotic devices
 3 or complex rehabilitation technology devices shall consider
 4 these benefits habilitative or rehabilitative benefits for
 5 purposes of any state or federal requirement for coverage of
 6 essential health benefits.

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, an
 10 insurer shall apply the most recent version of evidence-based
 11 treatment and fit criteria as recognized by relevant clinical
 12 specialists or their organizations. Such standards may be
 13 named by the superintendent in rule.

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

20 D. An insurer shall not deny a prosthetic ~~[or]~~
 21 device, a custom orthotic device or a complex rehabilitation
 22 technology device benefit for ~~[an individual with limb loss or~~
 23 ~~absence]~~ a person with limb loss, limb absence or mobility
 24 limitation that would otherwise be covered for a non-disabled
 25 person seeking medical or surgical intervention to restore or

1 maintain the ability to perform the same physical activity.

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

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

19 G. [A] An individual health plan that provides
 20 coverage for ~~[prosthetic or orthotic]~~ services related to
 21 prosthetic devices, custom orthotic devices or complex
 22 rehabilitation technology devices shall ensure access to
 23 medically necessary clinical care and to prosthetic ~~[and]~~
 24 devices, custom orthotic devices or complex rehabilitation
 25 technology devices and technology from not less than two

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

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

22 (1) a change in the physiological condition of
 23 the patient;

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

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

5 I. Covered benefits for prosthetic devices and
6 custom orthotic devices shall provide for more than one
7 prosthetic device or custom orthotic device when medically
8 necessary, but shall include no more than three prosthetic
9 devices or custom orthotic devices per affected limb per
10 covered person; provided that if after three years, a
11 prosthetic device or custom orthotic device is no longer the
12 appropriate device to meet the insured's needs for the
13 insured's preferred physical activity, coverage and payment for
14 new or replacement devices shall not be limited to three
15 prosthetic or custom orthotic devices per affected limb per
16 covered person. An individual health plan shall cover:

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

25 (a) formulation of the device's design,

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

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

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

(d) the repair and replacement of the
device;

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

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

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

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

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

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

6 J. Coverage for complex rehabilitation technology
7 devices shall be based on an insured's specific medical,
8 physical, functional and environmental needs and capacities to
9 engage in normal life activities and shall allow an insured to
10 obtain more than one complex rehabilitation technology device,
11 but no more than two complex rehabilitation technology devices
12 per covered person; provided that if after three years, a
13 complex rehabilitation technology device is no longer the
14 appropriate device to meet the insured's needs for the
15 insured's preferred physical activity, coverage and payment for
16 new or replacement devices shall not be limited to two complex
17 rehabilitation technology devices per covered person. An
18 individual health plan shall cover:

19 (1) complex rehabilitation technology devices
20 for daily use that meets the insured's mobility and positioning
21 needs;

22 (2) complex rehabilitation technology devices
23 to enable the insured to participate in physical activities
24 necessary to achieve or maintain health goals; and

25 (3) all services and supplies necessary for

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1 the effective use of a complex rehabilitation technology
2 device, including:

3 (a) configuring, fitting, programming,
4 adjusting or adapting the particular device for use by a
5 person, including the formulation of the device's design,
6 fabrication, material and component selection and measurements;

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

9 (c) instructing the insured in the use
10 of the device; and

11 (d) the repair and replacement of the
12 device.

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

16 (1) insured has undergone a complex
17 rehabilitation technology device evaluation conducted by a
18 licensed physical therapist or occupational therapist who has
19 no financial relationship with the supplier of the complex
20 rehabilitation technology device; and

21 (2) complex rehabilitation technology device
22 is provided by a complex rehabilitation technology device
23 supplier that:

24 (a) employs at least one assistive
25 technology professional certified by the rehabilitation

1 engineering and assistive technology society of North America
 2 who specialized in seating, positioning and mobility and has
 3 direct, in-person involvement in the wheelchair selection for
 4 the insured; and

5 (b) makes at least one qualified complex
 6 rehabilitation technology device service technician available
 7 in each service area served by the supplier to service and
 8 repair devices that are furnished by the supplier.

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

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

16 N. As used in this section, "complex rehabilitation
 17 technology device" means a subset of durable medical equipment
 18 that:

19 (1) consists of complex rehabilitation manual
 20 and power wheelchairs and mobility devices, including
 21 specialized seating and positioning items, options and
 22 accessories;

23 (2) is designed, manufactured, configured,
 24 adjusted or modified for a specific person to meet that
 25 person's unique medical, physical, functional and environmental

needs and capacities;

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

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

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

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

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

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

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

1 B. When performing a utilization review for a
 2 request for coverage of prosthetic ~~[or]~~ device, custom orthotic
 3 device or complex rehabilitation technology device benefits, an
 4 insurer shall apply the most recent version of evidence-based
 5 treatment and fit criteria as recognized by relevant clinical
 6 specialists or their organizations. Such standards may be
 7 named by the superintendent in rule.

8 C. An insurer shall render utilization review
 9 determinations in a nondiscriminatory manner and shall not deny
 10 coverage for habilitative or rehabilitative benefits, including
 11 ~~[prosthetics or orthotics]~~ prosthetic devices, custom orthotic
 12 devices or complex rehabilitation technology devices, solely
 13 based on an insured's actual or perceived disability.

14 D. An insurer shall not deny a prosthetic ~~[or]~~
 15 device, a custom orthotic device or a complex rehabilitation
 16 technology device benefit for ~~[an individual with limb loss or~~
 17 ~~absence]~~ a person with limb loss, limb absence or mobility
 18 limitation that would otherwise be covered for a non-disabled
 19 person seeking medical or surgical intervention to restore or
 20 maintain the ability to perform the same physical activity.

21 E. A group health ~~[benefits]~~ plan that is
 22 delivered, issued for delivery or renewed in this state that
 23 offers coverage for ~~[prosthetics and]~~ prosthetic devices,
 24 custom orthotic devices or complex rehabilitation technology
 25 devices shall include language describing an insured's rights

1 pursuant to Subsections C and D of this section in its evidence
2 of coverage and any benefit denial letters.

3 F. Prosthetic ~~[and]~~ device, custom orthotic device
4 or complex rehabilitation technology device coverage shall not
5 be subject to separate financial requirements that are
6 applicable only with respect to that coverage. A group health
7 plan may impose cost sharing on prosthetic ~~[or]~~ devices, custom
8 orthotic devices or complex rehabilitation technology devices;
9 provided that any cost-sharing requirements shall not be more
10 restrictive than the cost-sharing requirements applicable to
11 the plan's coverage for inpatient physician and surgical
12 services.

13 G. A group health plan that provides coverage for
14 ~~[prosthetic or orthotic]~~ services related to prosthetic
15 devices, custom orthotic devices or complex rehabilitation
16 technology devices shall ensure access to medically necessary
17 clinical care and to prosthetic ~~[and]~~ devices, custom orthotic
18 devices or complex rehabilitation technology devices and
19 technology from not less than two distinct prosthetic ~~[and]~~
20 device, custom orthotic device or complex rehabilitation
21 technology device providers in the ~~[managed care]~~ plan's
22 provider network located in the state. In the event that
23 medically necessary covered ~~[orthotics and prosthetics]~~
24 prosthetic devices, custom orthotic devices or complex
25 rehabilitation technology devices are not available from an in-

1 network provider, the insurer shall provide processes to refer
 2 [~~a member~~] an insured to an out-of-network provider and shall
 3 fully reimburse the out-of-network provider at a mutually
 4 agreed upon rate less [~~member~~] insured cost sharing determined
 5 on an in-network basis.

6 H. If coverage for prosthetic [~~or~~] devices, custom
 7 orthotic devices or complex rehabilitation technology devices
 8 is provided, payment shall be made for the replacement of a
 9 prosthetic [~~or~~] device, a custom orthotic device or a complex
 10 rehabilitation technology device or for the replacement of any
 11 part of such devices, without regard to continuous use or
 12 useful lifetime restrictions, if an ordering health care
 13 provider determines that the provision of a replacement device,
 14 or a replacement part of such a device, is necessary because of
 15 any of the following:

16 (1) a change in the physiological condition of
 17 the patient;

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

20 (3) the condition of the device or the part of
 21 the device requires repairs, and the cost of such repairs would
 22 be more than sixty percent of the cost of a replacement device
 23 or of the part being replaced.

24 I. Covered benefits for prosthetic devices and
 25 custom orthotic devices shall provide for more than one

prosthetic device or custom orthotic device when medically necessary, but shall include no more than three prosthetic devices or custom orthotic devices per affected limb per covered person; provided that if after three years, a prosthetic device or custom orthotic device is no longer the appropriate device to meet the insured's needs for the insured's preferred physical activity, coverage and payment for new or replacement devices shall not be limited to three prosthetic or custom orthotic devices per affected limb per covered person. A group health plan shall cover:

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

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

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

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

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

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

11 (a) formulation of the device's design,
12 fabrication, material and component selection, measurements,
13 fittings and static and dynamic alignments;

14 (b) all materials and components
15 necessary to use the device;

16 (c) instructing the insured in the use
17 of the device; and

18 (d) the repair and replacement of the
19 device; and

20 (3) a prosthetic device or custom orthotic
21 device determined by the insured's prosthetic or orthotic care
22 provider to be the most appropriate prosthetic device or custom
23 orthotic device that meets the medical needs of the insured for
24 purposes of showering or bathing.

25 J. Coverage for complex rehabilitation technology

1 devices shall be based on an insured's specific medical,
2 physical, functional and environmental needs and capacities to
3 engage in normal life activities and shall allow an insured to
4 obtain more than one complex rehabilitation technology device,
5 but no more than two complex rehabilitation technology devices
6 per covered person; provided that if after three years, a
7 complex rehabilitation technology device is no longer the
8 appropriate device to meet the insured's needs for the
9 insured's preferred physical activity, coverage and payment for
10 new or replacement devices shall not be limited to two complex
11 rehabilitation technology devices per covered person. A group
12 health plan shall cover:

13 (1) complex rehabilitation technology devices
14 for daily use that meet the insured's mobility and positioning
15 needs;

16 (2) complex rehabilitation technology devices
17 to enable the insured to participate in physical activities
18 necessary to achieve or maintain health goals; and

19 (3) all services and supplies necessary for
20 the effective use of a complex rehabilitation technology
21 device, including:

22 (a) configuring, fitting, programming,
23 adjusting or adapting the particular device for use by a
24 person, including the formulation of the device's design,
25 fabrication, material and component selection and measurements;

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.

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

10 (1) insured has undergone a complex
11 rehabilitation technology device evaluation conducted by a
12 licensed physical therapist or occupational therapist who has
13 no financial relationship with the supplier of the complex
14 rehabilitation technology device; and

15 (2) complex rehabilitation technology device
16 is provided by a complex rehabilitation technology device
17 supplier that:

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

24 (b) makes at least one qualified complex
25 rehabilitation technology device service technician available

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in each service area served by the supplier to service and repair devices that are furnished by the supplier.

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

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

N. As used in this section, "complex rehabilitation technology device" means a subset of durable medical equipment that:

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

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

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

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

1 (a) an evaluation of the features and
 2 functions necessary to assist the person who will use the
 3 device; or

4 (b) configuring, fitting, programming,
 5 adjusting or adapting the particular device for use by a
 6 person."

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

9 "59A-46-72. MEDICAL NECESSITY AND NONDISCRIMINATION
 10 STANDARDS FOR COVERAGE OF ~~[PROSTHETICS AND ORTHOTICS]~~
 11 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX
 12 REHABILITATION TECHNOLOGY DEVICES.--

13 A. An individual or group health maintenance
 14 organization contract that is delivered, issued for delivery or
 15 renewed in this state that covers essential health benefits and
 16 covers prosthetic ~~[and]~~ devices, custom orthotic devices or
 17 complex rehabilitation technology devices shall consider these
 18 benefits habilitative or rehabilitative benefits for purposes
 19 of state or federal requirements on essential health benefits
 20 coverage.

21 B. When performing a utilization review for a
 22 request for coverage of prosthetic ~~[or]~~ device, custom orthotic
 23 device or complex rehabilitation technology device benefits,
 24 ~~[an insurer]~~ a health maintenance organization shall apply the
 25 most recent version of evidence-based treatment and fit

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1 criteria as recognized by relevant clinical specialists or
 2 their organizations. Such standards may be named by the
 3 superintendent in rule.

4 C. ~~[An insurer]~~ A health maintenance organization
 5 shall render utilization review determinations in a
 6 nondiscriminatory manner and shall not deny coverage for
 7 habilitative or rehabilitative benefits, including ~~[prosthetics~~
 8 ~~or orthotics]~~ prosthetic devices, custom orthotic devices or
 9 complex rehabilitation technology devices, solely based on an
 10 ~~[insured's]~~ enrollee's actual or perceived disability.

11 D. ~~[An insurer]~~ A health maintenance organization
 12 shall not deny a prosthetic ~~[or]~~ device, a custom orthotic
 13 device a or complex rehabilitation technology device benefit
 14 for ~~[an individual with limb loss or absence]~~ a person with
 15 limb loss, limb absence or mobility limitation that would
 16 otherwise be covered for a non-disabled person seeking medical
 17 or surgical intervention to restore or maintain the ability to
 18 perform the same physical activity.

19 E. ~~[A health benefits plan]~~ An individual or group
 20 health maintenance organization contract that is delivered,
 21 issued for delivery or renewed in this state that offers
 22 coverage for ~~[prosthetics and]~~ prosthetic devices, custom
 23 orthotic devices or complex rehabilitation technology devices
 24 shall include language describing an ~~[insured's]~~ enrollee's
 25 rights pursuant to Subsections C and D of this section in its

1 evidence of coverage and any benefit denial letters.

2 F. Prosthetic [~~and~~] device, custom orthotic device
 3 or complex rehabilitation technology device coverage shall not
 4 be subject to separate financial requirements that are
 5 applicable only with respect to that coverage. An individual
 6 or group health [~~plan~~] maintenance organization contract may
 7 impose cost sharing on prosthetic [~~or~~] devices, custom orthotic
 8 devices or complex rehabilitation technology devices; provided
 9 that any cost-sharing requirements shall not be more
 10 restrictive than the cost-sharing requirements applicable to
 11 the plan's coverage for inpatient physician and surgical
 12 services.

13 G. An individual or group health [~~plan~~] maintenance
 14 organization contract that provides coverage for [~~prosthetic or~~
 15 ~~orthotic~~] services related to prosthetic devices, custom
 16 orthotic devices or complex rehabilitation technology devices
 17 shall ensure access to medically necessary clinical care and to
 18 prosthetic [~~and~~] devices, custom orthotic devices or complex
 19 rehabilitation technology devices and technology from not less
 20 than two distinct prosthetic [~~and~~] device, custom orthotic
 21 device or complex rehabilitation technology device providers in
 22 the managed care plan's provider network located in the state.
 23 In the event that medically necessary covered [~~orthotics and~~
 24 ~~prosthetics~~] prosthetic devices, custom orthotic devices or
 25 complex rehabilitation technology devices are not available

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1 from an in-network provider, the ~~[insurer]~~ health maintenance
2 organization shall provide processes to refer ~~[a member]~~ an
3 enrollee to an out-of-network provider and shall fully
4 reimburse the out-of-network provider at a mutually agreed upon
5 rate less ~~[member]~~ enrollee cost sharing determined on an in-
6 network basis.

7 H. If coverage for prosthetic ~~[or]~~ devices, custom
8 orthotic devices or complex rehabilitation technology devices
9 is provided, payment shall be made for the replacement of a
10 prosthetic ~~[or]~~ device, a custom orthotic device or a complex
11 rehabilitation technology device or for the replacement of any
12 part of such devices, without regard to continuous use or
13 useful lifetime restrictions, if an ordering health care
14 provider determines that the provision of a replacement device,
15 or a replacement part of such a device, is necessary because of
16 any of the following:

17 (1) a change in the physiological condition of
18 the patient;

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

21 (3) the condition of the device or the part of
22 the device requires repairs, and the cost of such repairs would
23 be more than sixty percent of the cost of a replacement device
24 or of the part being replaced.

25 I. Covered benefits for prosthetic devices and

1 custom orthotic devices shall provide for more than one
2 prosthetic device or custom orthotic device when medically
3 necessary, but shall include no more than three prosthetic
4 devices or custom orthotic devices per affected limb per
5 covered person; provided that if after three years, a
6 prosthetic device or custom orthotic device is no longer the
7 appropriate device to meet the enrollee's needs for the
8 enrollee's preferred physical activity, coverage and payment
9 for new or replacement devices shall not be limited to three
10 prosthetic or custom orthotic devices per affected limb per
11 covered person. An individual or group health maintenance
12 organization contract shall cover:

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

21 (a) formulation of the device's 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 the device;

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

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

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

13 (a) formulation of the device's 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 the device;

18 (c) instructing the enrollee in the use
19 of the device; and

20 (d) the repair and replacement of the
21 device; and

22 (3) a prosthetic device or custom orthotic
23 device determined by the enrollee's prosthetic or orthotic care
24 provider to be the most appropriate prosthetic device or custom
25 orthotic device that meets the medical needs of the enrollee

for purposes of showering or bathing.

J. Coverage for complex rehabilitation technology devices shall be based on an enrollee's specific medical, physical, functional and environmental needs and capacities to engage in normal life activities and shall allow an enrollee to obtain more than one complex rehabilitation technology device, but no more than two complex rehabilitation technology devices per covered person; provided that if after three years, a complex rehabilitation technology device is no longer the appropriate device to meet the enrollee's needs for the enrollee's preferred physical activity, coverage and payment for new or replacement devices shall not be limited to two complex rehabilitation technology devices per covered person. An individual or group health maintenance organization contract shall cover:

(1) complex rehabilitation technology devices for daily use that meets the enrollee's mobility and positioning needs;

(2) complex rehabilitation technology devices to enable the enrollee to participate in physical activities necessary to achieve or maintain health goals; and

(3) all services and supplies necessary for the effective use of a complex rehabilitation technology device, including:

(a) configuring, fitting, programming,

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adjusting or adapting the particular device for use by a person, including the formulation of the device's design, fabrication, material and component selection and measurements;

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

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

(d) the repair and replacement of the device.

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

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

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

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

1 the enrollee; and

2 (b) makes at least one qualified complex
 3 rehabilitation technology device service technician available
 4 in each service area served by the supplier to service and
 5 repair devices that are furnished by the supplier.

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

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

13 N. As used in this section, "complex rehabilitation
 14 technology device" means a subset of durable medical equipment
 15 that:

16 (1) consists of complex rehabilitation manual
 17 and power wheelchairs and mobility devices, including
 18 specialized seating and positioning items, options and
 19 accessories;

20 (2) is designed, manufactured, configured,
 21 adjusted or modified for a specific person to meet that
 22 person's unique medical, physical, functional and environmental
 23 needs and capacities;

24 (3) is generally not useful to a person in the
 25 absence of a disability, illness, injury or other medical

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condition; and

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

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

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

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

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

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

B. When performing a utilization review for a request for coverage of prosthetic ~~[or]~~ device, custom orthotic device or complex rehabilitation technology device benefits,

1 ~~[an insurer]~~ a health care plan shall apply the most recent
 2 version of evidence-based treatment and fit criteria as
 3 recognized by relevant clinical specialists or their
 4 organizations. Such standards may be named by the
 5 superintendent in rule.

6 C. ~~[An insurer]~~ A health care plan shall render
 7 utilization review determinations in a nondiscriminatory manner
 8 and shall not deny coverage for habilitative or rehabilitative
 9 benefits, including ~~[prosthetics or orthotics]~~ prosthetic
 10 devices, custom orthotic devices or complex rehabilitation
 11 technology devices, solely based on ~~[an insured's]~~ a
 12 subscriber's actual or perceived disability.

13 D. ~~[An insurer]~~ A health care plan shall not deny a
 14 prosthetic ~~[or]~~ device, a custom orthotic device or a complex
 15 rehabilitation technology device benefit for ~~[an individual~~
 16 ~~with limb loss, or absence]~~ a person with limb loss, limb
 17 absence or mobility limitation that would otherwise be covered
 18 for a non-disabled person seeking medical or surgical
 19 intervention to restore or maintain the ability to perform the
 20 same physical activity.

21 E. A health ~~[benefits]~~ care plan that is delivered,
 22 issued for delivery or renewed in this state that offers
 23 coverage for ~~[prosthetics and]~~ prosthetic devices, custom
 24 orthotic devices or complex rehabilitation technology devices
 25 shall include language describing an ~~[insured's]~~ a subscriber's

1 rights pursuant to Subsections C and D of this section in its
2 evidence of coverage and any benefit denial letters.

3 F. Prosthetic ~~[and]~~ device, custom orthotic device
4 or complex rehabilitation technology device coverage shall not
5 be subject to separate financial requirements that are
6 applicable only with respect to that coverage. An individual
7 or group health care plan may impose cost sharing on prosthetic
8 ~~[or]~~ devices, custom orthotic devices or complex rehabilitation
9 technology devices; provided that any cost-sharing requirements
10 shall not be more restrictive than the cost-sharing
11 requirements applicable to the plan's coverage for inpatient
12 physician and surgical services.

13 G. An individual or group health care plan that
14 provides coverage for ~~[prosthetic or orthotic]~~ services related
15 to prosthetic devices, custom orthotic devices or complex
16 rehabilitation technology devices shall ensure access to
17 medically necessary clinical care and to prosthetic ~~[and]~~
18 devices, custom orthotic devices or complex rehabilitation
19 technology devices and technology from not less than two
20 distinct prosthetic ~~[and]~~ device, custom orthotic device or
21 complex rehabilitation technology device providers in the
22 ~~[managed]~~ health care plan's provider network located in the
23 state. In the event that medically necessary covered
24 ~~[orthotics and prosthetics]~~ prosthetic devices, custom orthotic
25 devices or complex rehabilitation technology devices are not

1 available from an in-network provider, the ~~[insurer]~~ health
 2 care plan shall provide processes to refer a ~~[member]~~
 3 subscriber to an out-of-network provider and shall fully
 4 reimburse the out-of-network provider at a mutually agreed upon
 5 rate less ~~[member]~~ subscriber cost sharing determined on an in-
 6 network basis.

7 H. If coverage for prosthetic ~~[or]~~ devices, custom
 8 orthotic devices or complex rehabilitation technology devices
 9 is provided, payment shall be made for the replacement of a
 10 prosthetic ~~[or]~~ device, a custom orthotic device or a complex
 11 rehabilitation technology device or for the replacement of any
 12 part of such devices, without regard to continuous use or
 13 useful lifetime restrictions, if an ordering health care
 14 provider determines that the provision of a replacement device,
 15 or a replacement part of such a device, is necessary because of
 16 any of the following:

17 (1) a change in the physiological condition of
 18 the patient;

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

21 (3) the condition of the device or the part of
 22 the device requires repairs, and the cost of such repairs would
 23 be more than sixty percent of the cost of a replacement device
 24 or of the part being replaced.

25 I. Covered benefits for prosthetic devices and

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1 custom orthotic devices shall provide for more than one
2 prosthetic device or custom orthotic device when medically
3 necessary, but shall include no more than three prosthetic
4 devices or custom orthotic devices per affected limb per
5 covered person; provided that if after three years, a
6 prosthetic device or custom orthotic device is no longer the
7 appropriate device to meet the subscriber's needs for the
8 subscriber's preferred physical activity, coverage and payment
9 for new or replacement devices shall not be limited to three
10 prosthetic or custom orthotic devices per affected limb per
11 covered person. A health care plan shall cover:

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

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

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

25 (c) instructing the subscriber in the

use of the device; and

(d) the repair and replacement of the device;

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

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

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

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

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

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

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1 J. Coverage for complex rehabilitation technology
2 devices shall be based on a subscriber's specific medical,
3 physical, functional and environmental needs and capacities to
4 engage in normal life activities and shall allow a subscriber
5 to obtain more than one complex rehabilitation technology
6 device, but no more than two complex rehabilitation technology
7 devices per covered person; provided that if after three years,
8 a complex rehabilitation technology device is no longer the
9 appropriate device to meet the subscriber's needs for the
10 subscriber's preferred physical activity, coverage and payment
11 for new or replacement devices shall not be limited to two
12 complex rehabilitation technology devices per covered person.
13 A health care plan shall cover:

14 (1) complex rehabilitation technology devices
15 for daily use that meet the subscriber's mobility and
16 positioning needs;

17 (2) complex rehabilitation technology devices
18 to enable the subscriber to participate in physical activities
19 necessary to achieve or maintain health goals; and

20 (3) all services and supplies necessary for
21 the effective use of a complex rehabilitation technology
22 device, including:

23 (a) configuring, fitting, programming,
24 adjusting or adapting the particular device for use by a
25 person, including the formulation of the device's design,

fabrication, material and component selection and measurements;

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

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

(d) the repair and replacement of the
device.

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

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

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

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

(b) makes at least one qualified complex

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rehabilitation technology device service technician available in each service area served by the supplier to service and repair devices that are furnished by the supplier.

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

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

N. As used in this section, "complex rehabilitation technology device" means a subset of durable medical equipment that:

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

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

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

(4) requires specialized services to ensure

appropriate use of the item, including:

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

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

SECTION 7. APPLICABILITY.--The provisions of this act apply to policies, plans, contracts and certificates delivered or issued for delivery or renewed, extended or amended in this state on or after January 1, 2027.

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underscored material = new
[bracketed material] = delete