

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~~

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underscoring material = new  
[bracketed material] = delete

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 or custom orthotic device when  
8 medically necessary, but shall include no more than three  
9 prosthetic devices or custom orthotic devices per affected limb  
10 per 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 enrollee's needs for the  
13 enrollee's preferred physical activity, coverage and payment  
14 for new or replacement devices shall not be limited to three  
15 prosthetic or custom orthotic devices per affected limb per  
16 covered person. [B.] A group health plan shall cover:

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

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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) [~~C. 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 necessary to achieve or maintain health goals; and

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

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

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

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

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

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

21 ~~[E.]~~ D. Prosthetic ~~[and]~~ device, custom orthotic  
22 device or complex rehabilitation technology device coverage  
23 shall be comparable to coverage for other medical and surgical  
24 benefits under the group health plan, including restorative  
25 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

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

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

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

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

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

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

18 SECTION 2. Section 59A-16-21.4 NMSA 1978 (being Laws  
19 2023, Chapter 196, Section 2) is amended to read:

20 "59A-16-21.4. UNFAIR TRADE PRACTICES ON THE BASIS OF  
21 DISABILITY PROHIBITED.--

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

25 (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,

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underscored material = new  
[bracketed material] = delete

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

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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,

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

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

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

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

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

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

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

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

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

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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 ~~[O.]~~ 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

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1 needs and capacities;

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

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

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

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

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

15 "59A-23-32. MEDICAL NECESSITY AND NONDISCRIMINATION  
16 STANDARDS FOR COVERAGE OF ~~[PROSTHETICS AND ORTHOTICS]~~  
17 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX  
18 REHABILITATION TECHNOLOGY DEVICES.--

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

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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

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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

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

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

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

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underscoring material = new  
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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;

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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.

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

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

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

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

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

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

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

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

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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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underscored material = new  
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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

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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

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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 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

1 for purposes of showering or bathing.

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

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

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

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

25 (a) configuring, fitting, programming,

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

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

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

8 (d) the repair and replacement of the  
9 device.

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

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

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

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

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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 ~~[O.]~~ 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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underscored material = new  
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1 condition; and

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

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

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

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

12 "59A-47-66. MEDICAL NECESSITY AND NONDISCRIMINATION  
13 STANDARDS FOR COVERAGE OF [~~PROSTHETICS AND ORTHOTICS~~]  
14 PROSTHETIC DEVICES, CUSTOM ORTHOTIC DEVICES OR COMPLEX  
15 REHABILITATION TECHNOLOGY DEVICES.--

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

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

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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

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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

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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

1 use of the device; and

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

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

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

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

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

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

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

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1 fabrication, material and component selection and measurements;

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

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

6 (d) the repair and replacement of the  
7 device.

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

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

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

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

25 (b) makes at least one qualified complex

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

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

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

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

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

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

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

25 (4) requires specialized services to ensure

1 appropriate use of the item, including:

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

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

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

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underscoring material = new  
[bracketed material] = delete