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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 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

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

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

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

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

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

24 (d) the repair and replacement of it;

25 (2) a prosthetic device or a custom orthotic

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

8 (a) formulation of its design,
9 fabrication, material and component selection, measurements,
10 fittings and static and dynamic alignments;

11 (b) all materials and components
12 necessary to use it;

13 (c) instructing the enrollee in the use
14 of it; and

15 (d) the repair and replacement of it;
16 and

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

22 B. Coverage for complex rehabilitation technology
23 devices shall be based on an enrollee's specific medical,
24 physical, functional and environmental needs and capacities
25 to engage in normal life activities and shall allow an

1 enrollee to obtain more than one complex rehabilitation
2 technology device, but no more than two complex
3 rehabilitation technology devices per covered person;
4 provided that if after three years, a complex rehabilitation
5 technology device is no longer the appropriate device to meet
6 the enrollee's needs for the enrollee's preferred physical
7 activity, coverage and payment for new or replacement devices
8 shall not be limited to two complex rehabilitation technology
9 devices per covered person. A group health plan shall cover:

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

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

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

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

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

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

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

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

11 D. Prosthetic device, custom orthotic device or
12 complex rehabilitation technology device coverage shall be
13 comparable to coverage for other medical and surgical
14 benefits under the group health plan, including restorative
15 internal devices such as internal prosthetic devices, and
16 shall not be subject to spending limits or lifetime
17 restrictions.

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

1 applicable to the plan's medical and surgical benefits,
2 including those for internal devices.

3 F. A group health plan may limit the coverage for,
4 or alter the cost-sharing requirements for, out-of-network
5 coverage of prosthetic devices, custom orthotic devices or
6 complex rehabilitation technology devices; provided that the
7 restrictions and cost-sharing requirements applicable to
8 prosthetic devices, custom orthotic devices or complex
9 rehabilitation technology devices shall not be more
10 restrictive than the restrictions and requirements applicable
11 to the out-of-network coverage for a group health plan's
12 medical and surgical coverage.

13 G. In the event that medically necessary covered
14 prosthetic devices, custom orthotic devices or complex
15 rehabilitation technology devices are not available from an
16 in-network provider, the insurer shall provide processes to
17 refer a member to an out-of-network provider and shall fully
18 reimburse the out-of-network provider at a mutually agreed
19 upon rate less member cost sharing determined on an in-
20 network basis.

21 H. A group health plan shall not impose any annual
22 or lifetime dollar maximum on coverage for prosthetic
23 devices, custom orthotic devices or complex rehabilitation
24 technology devices other than an annual or lifetime dollar
25 maximum that applies in the aggregate to all terms and

1 services covered under the group health plan.

2 I. If coverage is provided through a managed care
3 plan, an enrollee shall have access to medically necessary
4 clinical care and to prosthetic devices, custom orthotic
5 devices or complex rehabilitation technology devices
6 and technology from not less than two distinct prosthetic
7 device, custom orthotic device or complex rehabilitation
8 technology device providers in the managed care plan's
9 provider network located in the state.

10 J. Coverage for prosthetic devices, custom
11 orthotic devices or complex rehabilitation technology devices
12 shall be considered habilitative or rehabilitative benefits
13 for purposes of any state or federal requirement for coverage
14 of essential health benefits, including habilitative and
15 rehabilitative benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (3) is generally not useful to a person in

1 the absence of a disability, illness, injury or other medical
2 condition; and

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

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

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

11 SECTION 2. Section 59A-16-21.4 NMSA 1978 (being Laws
12 2023, Chapter 196, Section 2) is amended to read:

13 "59A-16-21.4. UNFAIR TRADE PRACTICES ON THE BASIS OF
14 DISABILITY PROHIBITED.--

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

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

21 (2) denying a prosthetic device, a custom
22 orthotic device or a complex rehabilitation technology device
23 benefit for 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 (3) failure to apply the most recent version
3 of treatment and fit criteria developed by the professional
4 association with the most relevant clinical specialty when
5 performing a utilization review for a request for coverage of
6 prosthetic device, custom orthotic device or complex
7 rehabilitation technology device benefits; and

8 (4) failure to apply medical necessity
9 review standards developed by the professional association
10 with the most relevant clinical specialty when conducting
11 utilization management review or processing appeals regarding
12 benefit denial.

13 B. For purposes of this section:

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

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

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

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

1 medical condition; and

2 (d) requires specialized services to
3 ensure appropriate use of the item, including: 1) an
4 evaluation of the features and functions necessary to assist
5 the person who will use the device; or 2) configuring,
6 fitting, programming, adjusting or adapting the particular
7 device for use by a person; and

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

- 13 (a) an accident-only policy;
- 14 (b) a credit-only policy;
- 15 (c) a long- or short-term care or
16 disability income policy;
- 17 (d) a specified disease policy;
- 18 (e) coverage provided pursuant to Title
19 18 of the federal Social Security Act, as amended;
- 20 (f) coverage provided pursuant to Title
21 19 of the federal Social Security Act and the Public
22 Assistance Act;
- 23 (g) a federal TRICARE policy, including
24 a federal civilian health and medical program of the
25 uniformed services supplement;

1 (h) a fixed or hospital indemnity
2 policy;
3 (i) a dental-only policy;
4 (j) a vision-only policy;
5 (k) a workers' compensation policy;
6 (l) an automobile medical payment
7 policy; or
8 (m) any other policy specified in rules
9 of the superintendent."

10 SECTION 3. Section 59A-22-62 NMSA 1978 (being Laws
11 2023, Chapter 196, Section 3) is amended to read:

12 "59A-22-62. MEDICAL NECESSITY AND NONDISCRIMINATION
13 STANDARDS FOR COVERAGE OF PROSTHETIC DEVICES, CUSTOM ORTHOTIC
14 DEVICES OR COMPLEX REHABILITATION TECHNOLOGY DEVICES.--

15 A. An individual health plan that is delivered,
16 issued for delivery or renewed in this state that offers
17 coverage for prosthetic devices, custom orthotic devices or
18 complex rehabilitation technology devices shall consider
19 these benefits habilitative or rehabilitative benefits for
20 purposes of any state or federal requirement for coverage of
21 essential health benefits.

22 B. When performing a utilization review for a
23 request for coverage of prosthetic device, custom orthotic
24 device or complex rehabilitation technology device benefits,
25 an insurer shall apply the most recent version of evidence-

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

4 C. An insurer shall render utilization review
5 determinations in a nondiscriminatory manner and shall not
6 deny coverage for habilitative or rehabilitative benefits,
7 including prosthetic devices, custom orthotic devices or
8 complex rehabilitation technology devices, solely on the
9 basis of an insured's actual or perceived disability.

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

17 E. An individual health plan that is delivered,
18 issued for delivery or renewed in this state that offers
19 coverage for prosthetic devices, custom orthotic devices or
20 complex rehabilitation technology devices shall include
21 language describing an insured's rights pursuant to
22 Subsections C and D of this section in its evidence of
23 coverage and any benefit denial letters.

24 F. Prosthetic device, custom orthotic device or
25 complex rehabilitation technology device coverage shall not

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

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

25 H. If coverage for prosthetic devices, custom

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

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

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

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

18 I. Covered benefits for prosthetic devices and
19 custom orthotic devices shall provide for more than one
20 prosthetic device or custom orthotic device when medically
21 necessary, but shall include no more than three prosthetic
22 devices or custom orthotic devices per affected limb per
23 covered person; provided that if after three years, a
24 prosthetic device or custom orthotic device is no longer the
25 appropriate device to meet the insured's needs for the

1 insured's preferred physical activity, coverage and payment
2 for new or replacement devices shall not be limited to three
3 prosthetic or custom orthotic devices per affected limb per
4 covered person. An individual health plan shall cover:

5 (1) the most appropriate prosthetic device
6 or custom orthotic device determined to be medically
7 necessary by the insured's treating physician and associated
8 medical providers to restore or maintain the ability to
9 complete activities of daily living or essential job-related
10 activities. This coverage shall include all services and
11 supplies necessary for the effective use of a prosthetic
12 device 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 insured in the use
19 of the device; and

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

22 (2) a prosthetic device or a custom orthotic
23 device determined by the insured's provider to be the most
24 appropriate model that meets the medical needs of the insured
25 for performing physical activities, including running, biking

1 and swimming, and to maximize the insured's upper limb
2 function. This coverage shall include all services and
3 supplies necessary for the effective use of a prosthetic
4 device or a custom orthotic device, including:

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

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

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

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

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

19 J. Coverage for complex rehabilitation technology
20 devices shall be based on an insured's specific medical,
21 physical, functional and environmental needs and capacities
22 to engage in normal life activities and shall allow an
23 insured to obtain more than one complex rehabilitation
24 technology device, but no more than two complex
25 rehabilitation technology devices per covered person;

1 provided that if after three years, a complex rehabilitation
2 technology device is no longer the appropriate device to meet
3 the insured's needs for the insured's preferred physical
4 activity, coverage and payment for new or replacement devices
5 shall not be limited to two complex rehabilitation technology
6 devices per covered person. An individual health plan shall
7 cover:

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

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

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

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

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

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

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

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

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

25 L. Confirmation from a prescribing health care

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

4 M. The provisions of this section do not apply to
5 excepted benefits plans subject to the Short-Term Health Plan
6 and Excepted Benefit Act.

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

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

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

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

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

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

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

4 SECTION 4. Section 59A-23-32 NMSA 1978 (being Laws
5 2023, Chapter 196, Section 4) is amended to read:

6 "59A-23-32. MEDICAL NECESSITY AND NONDISCRIMINATION
7 STANDARDS FOR COVERAGE OF PROSTHETIC DEVICES, CUSTOM ORTHOTIC
8 DEVICES OR COMPLEX REHABILITATION TECHNOLOGY DEVICES.--

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

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

23 C. An insurer shall render utilization review
24 determinations in a nondiscriminatory manner and shall not
25 deny coverage for habilitative or rehabilitative benefits,

1 including prosthetic devices, custom orthotic devices or
2 complex rehabilitation technology devices, solely based on an
3 insured's actual or perceived disability.

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

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

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

1 applicable to the plan's coverage for inpatient physician and
2 surgical services.

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

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

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

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

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

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

12 I. Covered benefits for prosthetic devices and
13 custom orthotic devices shall provide for more than one
14 prosthetic device or custom orthotic device when medically
15 necessary, but shall include no more than three prosthetic
16 devices or custom orthotic devices per affected limb per
17 covered person; provided that if after three years, a
18 prosthetic device or custom orthotic device is no longer the
19 appropriate device to meet the insured's needs for the
20 insured's preferred physical activity, coverage and payment
21 for new or replacement devices shall not be limited to three
22 prosthetic or custom orthotic devices per affected limb per
23 covered person. A group health plan shall cover:

24 (1) the most appropriate prosthetic device
25 or custom orthotic device determined to be medically

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

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

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

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

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

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

24 (a) formulation of the device's design,
25 fabrication, material and component selection, measurements,

1 fittings and static and dynamic alignments;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (1) insured has undergone a complex
25 rehabilitation technology device evaluation conducted by a

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

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

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

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

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

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

25 N. As used in this section, "complex

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

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

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

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

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

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

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

22 SECTION 5. Section 59A-46-72 NMSA 1978 (being Laws
23 2023, Chapter 196, Section 5) is amended to read:

24 "59A-46-72. MEDICAL NECESSITY AND NONDISCRIMINATION
25 STANDARDS FOR COVERAGE OF PROSTHETIC DEVICES, CUSTOM ORTHOTIC

1 DEVICES OR COMPLEX REHABILITATION TECHNOLOGY DEVICES.--

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

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

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

25 D. A health maintenance organization shall not

1 deny a prosthetic device, a custom orthotic device or a
2 complex rehabilitation technology device benefit for a person
3 with limb loss, limb absence or mobility limitation that
4 would otherwise be covered for a non-disabled person seeking
5 medical or surgical intervention to restore or maintain the
6 ability to perform the same physical activity.

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

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

25 G. An individual or group health maintenance

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

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

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

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

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

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

11 I. Covered benefits for prosthetic devices and
12 custom orthotic devices shall provide for more than one
13 prosthetic device or custom orthotic device when medically
14 necessary, but shall include no more than three prosthetic
15 devices or custom orthotic devices per affected limb per
16 covered person; provided that if after three years, a
17 prosthetic device or custom orthotic device is no longer the
18 appropriate device to meet the enrollee's needs for the
19 enrollee's preferred physical activity, coverage and payment
20 for new or replacement devices shall not be limited to three
21 prosthetic or custom orthotic devices per affected limb per
22 covered person. An individual or group health maintenance
23 organization contract shall cover:

24 (1) the most appropriate prosthetic device
25 or custom orthotic device determined to be medically

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

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

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

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

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

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

24 (a) formulation of the device's design,
25 fabrication, material and component selection, measurements,

1 fittings and static and dynamic alignments;

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

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

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

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

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

1 maintenance organization contract shall cover:

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

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

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

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

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.

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

25 (1) enrollee has undergone a complex

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 6. Section 59A-47-66 NMSA 1978 (being Laws
24 2023, Chapter 196, Section 6) is amended to read:

25 "59A-47-66. MEDICAL NECESSITY AND NONDISCRIMINATION

1 STANDARDS FOR COVERAGE OF PROSTHETIC DEVICES, CUSTOM ORTHOTIC
2 DEVICES OR COMPLEX REHABILITATION TECHNOLOGY DEVICES.--

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

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

17 C. A health care plan shall render utilization
18 review determinations in a nondiscriminatory manner and shall
19 not deny coverage for habilitative or rehabilitative
20 benefits, including prosthetic devices, custom orthotic
21 devices or complex rehabilitation technology devices, solely
22 based on a subscriber's actual or perceived disability.

23 D. A health care plan shall not deny a prosthetic
24 device, a custom orthotic device or a complex rehabilitation
25 technology device benefit for a person with limb loss, limb

1 absence or mobility limitation that would otherwise be
2 covered for a non-disabled person seeking medical or surgical
3 intervention to restore or maintain the ability to perform
4 the same physical activity.

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

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

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

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

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

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

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

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

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

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

1 prosthetic device or a custom orthotic device, including:

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

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

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

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

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

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

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

23 (1) complex rehabilitation technology
24 devices for daily use that meet the subscriber's mobility and
25 positioning needs;

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

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

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

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

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

16 (d) the repair and replacement of the
17 device.

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

21 (1) subscriber 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 subscriber; and

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

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

19 M. The provisions of this section do not apply to
20 excepted benefits plans subject to the Short-Term Health Plan
21 and Excepted Benefit Act.

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

25 (1) consists of complex rehabilitation

1 manual and power wheelchairs and mobility devices, including
2 specialized seating and positioning items, options and
3 accessories;

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

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

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

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

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

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

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