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SENATE BILL 647

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Allen V. Hurt

AN ACT

RELATING TO PRESCRIPTION DRUGS; REQUIRING A COPAYMENT FOR  
PRESCRIPTION DRUGS ADVERTISED DIRECTLY TO CONSUMERS; ENACTING A  
SECTION OF THE NMSA 1978.

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

Section 1. A new section of the New Mexico Drug, Device  
and Cosmetic Act is enacted to read:

"NEW MATERIAL PRESCRIPTION DRUG ADVERTISING--  
COPAYMENTS. --

A. A consumer who is covered under a prescription  
drug plan and who purchases a prescription drug that has been  
advertised outside a professional medical journal or periodical  
shall pay an advertising copayment equal to twenty percent of  
the cost of the prescription drug. The advertising copayment  
is in addition to the prescription drug plan's regular

1 copayment, co-insurance or other patient cost-sharing amount.

2 B. A drug manufacturer shall, on a monthly basis,  
3 provide a written or electronically transmitted listing to each  
4 pharmacy that carries the manufacturer's drugs indicating those  
5 prescription drugs that have been advertised outside  
6 professional medical journals or periodicals within the  
7 immediately preceding six months. The advertising copayment  
8 shall apply to prescription drugs in that listing.

9 C. A prescription drug plan administrator,  
10 contractor or other intermediary responsible for payment shall  
11 deduct the advertising copayment from the reimbursement paid to  
12 the pharmacy. The pharmacy shall forward the advertising  
13 copayment to the drug manufacturer or other entity from which  
14 it purchases prescription drugs.

15 D. As used in this section, "advertised outside a  
16 professional medical journal or periodical" means the marketing  
17 of prescription drugs in any medium designed to target the  
18 general consumer public rather than health care practitioners  
19 possessing prescriptive authority. "