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HOUSE BILL 638

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Danice Picraux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO INSURANCE; RECOGNIZING CERTAIN PHARMACISTS AS
PRACTITIONERS TO BE REIMBURSED FOR SERVICES RENDERED.

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

Section 1. Section 59A-22-32 NMSA 1978 (being Laws 1984,
Chapter 127, Section 454, as amended) is amended to read:

"59A-22-32. FREEDOM OF CHOICE OF HOSPITAL AND
PRACTITIONER.--

A. Within the area and limits of coverage offered
an insured and selected by ~~[him]~~ the insured in the application
for insurance, the right of any person to exercise full freedom
of choice in the selection of any hospital for hospital care or
of any practitioner of the healing arts or optometrist,
pharmacist, pharmacist clinician, psychologist, podiatrist,
certified nurse-midwife, registered lay midwife or registered

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1 nurse in expanded practice, as defined in Subsection B of this
2 section, for treatment of any illness or injury within ~~[his]~~
3 the scope of that practice shall not be restricted under any
4 ~~[new]~~ policy of health insurance, contract or health care plan
5 ~~[issued after June 30, 1967 in this state]~~ or in the processing
6 of any claim ~~[thereunder]~~. ~~[Any]~~ A person insured or claiming
7 benefits under ~~[any such]~~ a health insurance policy, contract
8 or health care plan providing within its coverage for payment
9 of service benefits or indemnity for hospital care or treatment
10 of persons for the cure or correction of any physical or mental
11 condition shall be deemed to have complied with the
12 requirements of the policy, contract or health care plan as to
13 submission of proof of loss upon submitting written proof
14 supported by the certificate of ~~[any]~~ a hospital ~~[currently]~~
15 licensed by the department of health or any practitioner of the
16 healing arts or optometrist, psychologist, podiatrist,
17 certified nurse-midwife, registered lay midwife or registered
18 nurse in expanded practice.

19 B. As used in this section:

20 (1) "hospital care" means hospital service
21 provided through a hospital that is maintained by the state or
22 any political subdivision of the state or any place that is
23 currently licensed as a hospital by the department of health
24 and has accommodations for resident bed patients, a licensed
25 professional registered nurse always on duty or call, a

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1 laboratory and an operating room where surgical operations are
2 performed, but "hospital care" does not include a convalescent
3 or nursing or rest home;

4 (2) "practitioner of the healing arts" means
5 any person holding a license or certificate authorizing the
6 licensee to offer or undertake to diagnose, treat, operate on
7 or prescribe for any human pain, injury, disease, deformity or
8 physical or mental condition pursuant to:

9 (a) the Chiropractic Physician Practice
10 Act;

11 (b) the Dental Health Care Act;

12 (c) the Medical Practice Act;

13 (d) Chapter 61, Article 10 NMSA 1978;

14 [~~and~~]

15 (e) the Pharmacy Act;

16 (f) the Pharmacist Prescriptive
17 Authority Act; and

18 [~~(e)~~] (g) the Acupuncture and Oriental
19 Medicine Practice Act;

20 (3) "optometrist" means any person holding a
21 license provided for in the Optometry Act;

22 (4) "podiatrist" means any person holding a
23 license provided for in the Podiatry Act;

24 (5) "psychologist" means a person who is duly
25 licensed or certified in the state where the service is

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1 rendered and has a doctoral degree in psychology and has had at
2 least two years of clinical experience in a recognized health
3 setting or has met the standards of the national register of
4 health service providers in psychology;

5 (6) "certified nurse-midwife" means any person
6 licensed by the board of nursing as a registered nurse and who
7 is registered with the public health division of the department
8 of health as a certified nurse-midwife;

9 (7) "registered lay midwife" means any person
10 who practices lay midwifery and is registered as a registered
11 lay midwife by the public health division of the department of
12 health; and

13 (8) "registered nurse in expanded practice"
14 means any person licensed by the board of nursing as a
15 registered nurse approved for expanded practice pursuant to the
16 Nursing Practice Act as a certified nurse practitioner,
17 certified registered nurse anesthetist, certified clinical
18 nurse specialist in psychiatric mental health nursing or
19 clinical nurse specialist in private practice and who has a
20 master's degree or doctorate in a defined clinical nursing
21 speciality and is certified by a national nursing organization.

22 ~~[C. This section shall apply to any such policy~~
23 ~~that is delivered or issued for delivery in this state on or~~
24 ~~after July 1, 1979 and to any existing group policy or plan on~~
25 ~~its anniversary or renewal date after June 30, 1979 or at~~

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1 ~~expiration of the applicable collective bargaining contract, if~~
2 ~~any, whichever is later.]"~~

3 Section 2. Section 59A-46-2 NMSA 1978 (being Laws 1993,
4 Chapter 266, Section 2) is amended to read:

5 "59A-46-2. DEFINITIONS.--As used in the Health
6 Maintenance Organization Law:

7 A. "basic health care services":

8 (1) means medically necessary services
9 consisting of preventive care, emergency care, inpatient and
10 outpatient hospital and physician care, diagnostic laboratory,
11 [~~and~~] diagnostic and therapeutic radiological services and
12 services of pharmacists and pharmacist clinicians; but

13 (2) does not include mental health services or
14 services for alcohol or drug abuse, dental or vision services
15 or long-term rehabilitation treatment;

16 B. "capitated basis" means fixed per member per
17 month payment or percentage of premium payment wherein the
18 provider assumes the full risk for the cost of contracted
19 services without regard to the type, value or frequency of
20 services provided and includes the cost associated with
21 operating staff model facilities;

22 C. "carrier" means a health maintenance
23 organization, an insurer, a nonprofit health care plan or other
24 entity responsible for the payment of benefits or provision of
25 services under a group contract;

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1 D. "copayment" means an amount an enrollee must pay
2 in order to receive a specific service that is not fully
3 prepaid;

4 E. "deductible" means the amount an enrollee is
5 responsible to pay out-of-pocket before the health maintenance
6 organization begins to pay the costs associated with treatment;

7 F. "enrollee" means an individual who is covered by
8 a health maintenance organization;

9 G. "evidence of coverage" means a policy, contract
10 or certificate showing the essential features and services of
11 the health maintenance organization coverage that is given to
12 the subscriber by the health maintenance organization or by the
13 group contract holder;

14 H. "extension of benefits" means the continuation
15 of coverage under a particular benefit provided under a
16 contract or group contract following termination with respect
17 to an enrollee who is totally disabled on the date of
18 termination;

19 I. "grievance" means a written complaint submitted
20 in accordance with the health maintenance organization's formal
21 grievance procedure by or on behalf of the enrollee regarding
22 any aspect of the health maintenance organization relative to
23 the enrollee;

24 J. "group contract" means a contract for health
25 care services that by its terms limits eligibility to members

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1 of a specified group and may include coverage for dependents;

2 K. "group contract holder" means the person to
3 [~~which~~] whom a group contract has been issued;

4 L. "health care services" means any services
5 included in the furnishing to any individual of medical,
6 mental, dental, pharmaceutical or optometric care or
7 hospitalization or nursing home care or incident to the
8 furnishing of such care or hospitalization, as well as the
9 furnishing to any person of any and all other services for the
10 purpose of preventing, alleviating, curing or healing human
11 physical or mental illness or injury;

12 M. "health maintenance organization" means any
13 person who undertakes to provide or arrange for the delivery of
14 basic health care services to enrollees on a prepaid basis,
15 except for enrollee responsibility for copayments or
16 deductibles;

17 N. "health maintenance organization agent" means a
18 person who solicits, negotiates, effects, procures, delivers,
19 renews or continues a policy or contract for health maintenance
20 organization membership or who takes or transmits a membership
21 fee or premium for such a policy or contract, other than for
22 himself, or a person who advertises or otherwise holds himself
23 out to the public as such;

24 O. "individual contract" means a contract for
25 health care services issued to and covering an individual and

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1 it may include dependents of the subscriber;

2 P. "insolvent" or "insolvency" means that the
3 organization has been declared insolvent and placed under an
4 order of liquidation by a court of competent jurisdiction;

5 Q. "managed hospital payment basis" means
6 agreements in which the financial risk is related primarily to
7 the degree of utilization rather than to the cost of services;

8 R. "net worth" means the excess of total admitted
9 assets over total liabilities, but the liabilities shall not
10 include fully subordinated debt;

11 S. "participating provider" means a provider as
12 defined in Subsection U of this section who, under an express
13 contract with the health maintenance organization or with its
14 contractor or subcontractor, has agreed to provide health care
15 services to enrollees with an expectation of receiving payment,
16 other than copayment or deductible, directly or indirectly from
17 the health maintenance organization;

18 T. "person" means an individual or any other legal
19 entity;

20 U. "provider" means any physician, pharmacist,
21 pharmacist clinician, hospital or other person licensed or
22 otherwise authorized to furnish health care services;

23 V. "replacement coverage" means the benefits
24 provided by a succeeding carrier;

25 W. "subscriber" means an individual whose

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1 employment or other status, except family dependency, is the
2 basis for eligibility for enrollment in the health maintenance
3 organization or, in the case of an individual contract, the
4 person in whose name the contract is issued; [~~and~~]

5 X. "uncovered expenditures" means the costs to the
6 health maintenance organization for health care services that
7 are the obligation of the health maintenance organization, for
8 which an enrollee may also be liable in the event of the health
9 maintenance organization's insolvency and for which no
10 alternative arrangements have been made that are acceptable to
11 the superintendent;

12 Y. "pharmacist" means a person licensed as a
13 pharmacist pursuant to the Pharmacy Act; and

14 Z. "pharmacist clinician" means a pharmacist who
15 exercises prescriptive authority pursuant to the Pharmacist
16 Prescriptive Authority Act."

17 Section 3. Section 59A-47-3 NMSA 1978 (being Laws 1984,
18 Chapter 127, Section 879.1, as amended) is amended to read:

19 "59A-47-3. DEFINITIONS.--As used in Chapter 59A, Article
20 47 NMSA 1978:

21 A. "health care" means the treatment of persons for
22 the prevention, cure or correction of any illness or physical
23 or mental condition, including optometric services;

24 B. "item of health care" includes any services or
25 materials used in health care;

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1 C. "health care expense payment" means a payment
2 for health care to a purveyor on behalf of a subscriber, or
3 such a payment to the subscriber;

4 D. "purveyor" means a person who furnishes any item
5 of health care and charges for that item;

6 E. "service benefit" means a payment that the
7 purveyor has agreed to accept as payment in full for health
8 care furnished the subscriber;

9 F. "indemnity benefit" means a payment that the
10 purveyor has not agreed to accept as payment in full for health
11 care furnished the subscriber;

12 G. "subscriber" means any individual who, because
13 of a contract with a health care plan entered into by or for
14 him, is entitled to have health care expense payments made on
15 his behalf or to him by the health care plan;

16 H. "underwriting manual" means the health care
17 plan's written criteria, approved by the superintendent, that
18 defines the terms and conditions under which subscribers may be
19 selected. The underwriting manual may be amended from time to
20 time, but amendment will not be effective until approved by the
21 superintendent. The superintendent shall notify the health
22 care plan filing the underwriting manual or the amendment
23 thereto of his approval or disapproval thereof in writing
24 within thirty days after filing or within sixty days after
25 filing if he shall so extend the time. If the superintendent

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1 fails to act within such period, the filing shall be deemed to
2 be approved;

3 I. "acquisition expenses" includes all expenses
4 incurred in connection with the solicitation and enrollment of
5 subscribers;

6 J. "administration expenses" means all expenses of
7 the health care plan other than the cost of health care expense
8 payments and acquisition expenses;

9 K. "health care plan" means a nonprofit corporation
10 authorized by the superintendent to enter into contracts with
11 subscribers and to make health care expense payments;

12 L. "agent" means a person appointed by a health
13 care plan authorized to transact business in this state to act
14 as its representative in any given locality for soliciting
15 health care policies and other related duties as may be
16 authorized;

17 M. "solicitor" means a person employed by the
18 licensed agent of a health care plan for the purpose of
19 soliciting health care policies and other related duties in
20 connection with the handling of the business of the agent as
21 may be authorized and paid for his services either on a
22 commission basis or salary basis or part by commission and part
23 by salary;

24 N. "chiropractor" means any person holding a
25 license provided for in the Chiropractic Practice Act; ~~and~~

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