

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 365

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HEALTH INSURANCE; MANDATING THAT PRIVATE AND PUBLIC
HEALTH INSURANCE INCLUDE COVERAGE FOR ANY CANCER THERAPIES FOR
CHILDREN.

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

Section 1. A new section of the Health Care Purchasing
Act is enacted to read:

"[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

A. Group health care coverage, including any form
of self-insurance, offered, issued or renewed under the Health
Care Purchasing Act shall provide coverage for any cancer
therapy approved by the federal food and drug administration or
any cancer therapy subject to a federal food and drug
administration investigational new drug application that is
prescribed for individuals from birth to nineteen years of age,

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underscoring material = new
[bracketed material] = delete

1 without regard to:

- 2 (1) its inclusion on any formulary; or
- 3 (2) any other limiting factor for therapies
- 4 provided in accordance with the prescribing physician's best
- 5 medical judgment and meeting reasonable standards of quality of
- 6 care consistent with prevailing professionally recognized
- 7 standards of medical practice.

8 B. This section applies to any therapy prescribed

9 to cancer patients, whether to treat the cancer itself, to

10 treat its side effects, to treat the side effects of the

11 treatment itself or to improve the likelihood of treatment

12 success.

13 C. The provisions of this section shall not apply

14 to short-term travel, accident-only or limited or specified

15 disease policies."

16 Section 2. A new section of the Public Assistance Act is

17 enacted to read:

18 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

19 A. The department shall promulgate rules for

20 coverage for any cancer therapy approved by the federal food

21 and drug administration or any cancer therapy subject to a

22 federal food and drug administration investigational new drug

23 application that is prescribed for medicaid recipients from

24 birth to nineteen years of age without regard to:

- 25 (1) its inclusion on any formulary; or

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1 (2) any other limiting factor for therapies
2 provided in accordance with the prescribing physician's best
3 medical judgment and meeting reasonable standards of quality of
4 care consistent with prevailing professionally recognized
5 standards of medical practice.

6 B. This section applies to any therapy prescribed
7 to cancer patients, whether to treat the cancer itself, to
8 treat its side effects, to treat the side effects of the
9 treatment itself or to improve the likelihood of treatment
10 success.

11 C. The department shall ensure that the cancer
12 therapy coverage described in Subsections A and B of this
13 section is in compliance with federal requirements and shall
14 apply for any waivers or medicaid state plan amendments that
15 the federal department of health and human services or the
16 federal Social Security Act requires to institute that cancer
17 therapy coverage.

18 D. Nothing in this section shall require the
19 department to expend state funds for cancer therapies when the
20 secretary does not reasonably expect to receive federal
21 matching funds for those expenditures.

22 E. The department shall make every effort to obtain
23 from pharmaceutical manufacturers any medications prescribed
24 for cancer patients free of charge when federal matching funds
25 are unavailable.

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1 F. The department shall quarterly publish in a
2 publicly accessible and prominent manner on its web site a list
3 of pharmaceutical manufacturers that agree to provide
4 medications prescribed for cancer patients free of charge and a
5 list of those pharmaceutical manufacturers that refuse to
6 supply those medications free of charge."

7 Section 3. A new section of Chapter 59A, Article 22 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

10 A. An individual or group health insurance policy,
11 health care plan or certificate of health insurance that is
12 delivered, issued for delivery or renewed in this state shall
13 provide coverage for any cancer therapy approved by the federal
14 food and drug administration or any cancer therapy subject to a
15 federal food and drug administration investigational new drug
16 application that is prescribed for individuals from birth to
17 nineteen years of age without regard to:

18 (1) its inclusion on any formulary; or

19 (2) any other limiting factor for therapies
20 provided in accordance with the prescribing physician's best
21 medical judgment and meeting reasonable standards of quality of
22 care consistent with prevailing professionally recognized
23 standards of medical practice.

24 B. This section applies to any therapy prescribed
25 to cancer patients, whether to treat the cancer itself, to

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1 treat its side effects, to treat the side effects of the
2 treatment itself or to improve the likelihood of treatment
3 success.

4 C. The provisions of this section shall not apply
5 to short-term travel, accident-only or limited or specified
6 disease policies."

7 Section 4. A new section of Chapter 59A, Article 23 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

10 A. A blanket or group health insurance policy or
11 contract that is delivered, issued for delivery or renewed in
12 this state shall provide coverage for any cancer therapy
13 approved by the federal food and drug administration or any
14 cancer therapy subject to a federal food and drug
15 administration investigational new drug application that is
16 prescribed for individuals from birth to nineteen years of age
17 without regard to:

- 18 (1) its inclusion on any formulary; or
 - 19 (2) any other limiting factor for therapies
- 20 provided in accordance with the prescribing physician's best
21 medical judgment and meeting reasonable standards of quality of
22 care consistent with prevailing professionally recognized
23 standards of medical practice.

24 B. This section applies to any therapy prescribed
25 to cancer patients, whether to treat the cancer itself, to

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underscored material = new
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1 treat its side effects, to treat the side effects of the
2 treatment itself or to improve the likelihood of treatment
3 success.

4 C. The provisions of this section shall not apply
5 to short-term travel, accident-only or limited or specified
6 disease policies."

7 Section 5. A new section of Chapter 59A, Article 46 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

10 A. An individual or group health maintenance
11 contract that is delivered, issued for delivery or renewed in
12 this state shall provide coverage for any cancer therapy
13 approved by the federal food and drug administration or any
14 cancer therapy subject to a federal food and drug
15 administration investigational new drug application that is
16 prescribed for individuals from birth to nineteen years of age
17 without regard to:

18 (1) its inclusion on any formulary; or

19 (2) any other limiting factor for therapies
20 provided in accordance with the prescribing physician's best
21 medical judgment and meeting reasonable standards of quality of
22 care consistent with prevailing professionally recognized
23 standards of medical practice.

24 B. This section applies to any therapy prescribed
25 to cancer patients, whether to treat the cancer itself, to

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1 treat its side effects, to treat the side effects of the
2 treatment itself or to improve the likelihood of treatment
3 success.

4 C. The provisions of this section shall not apply
5 to short-term travel, accident-only or limited or specified
6 disease policies."

7 Section 6. A new section of Chapter 59A, Article 47 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

10 A. An individual or group health insurance policy,
11 health care plan or certificate of health insurance that is
12 delivered, issued for delivery or renewed in the state shall
13 provide coverage for any cancer therapy approved by the federal
14 food and drug administration or any cancer therapy subject to a
15 federal food and drug administration investigational new drug
16 application that is prescribed for individuals from birth to
17 nineteen years of age, without regard to:

18 (1) its inclusion on any formulary; or

19 (2) any other limiting factor for therapies
20 provided in accordance with the prescribing physician's best
21 medical judgment and meeting reasonable standards of quality of
22 care consistent with prevailing professionally recognized
23 standards of medical practice.

24 B. This section applies to any therapy prescribed
25 to cancer patients, whether to treat the cancer itself, to

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1 treat its side effects, to treat the side effects of the
2 treatment itself or to improve the likelihood of treatment
3 success.

4 C. The provisions of this section shall not apply
5 to short-term travel, accident-only or limited or specified
6 disease policies."