

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 536

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO IMPOSE PRICING CONTROLS ON CERTAIN TYPES OF PRESCRIPTION DRUGS; PROVIDING FOR CONTINGENT APPLICABILITY.

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

SECTION 1. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"[NEW MATERIAL] PRESCRIPTION DRUG PRICE CONTROLS.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that provides coverage for prescription drugs and for which cost-sharing, deductibles or co-insurance obligations are determined

underscored material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 by the category or "tier" of the prescription drug shall not
2 impose cost-sharing, deductibles or co-insurance obligations
3 for any prescription drug that exceeds the dollar amount of
4 cost-sharing, deductibles or other co-insurance obligations
5 for:

6 (1) a non-preferred brand drug or its
7 equivalent; or

8 (2) a brand drug if there is no non-preferred
9 brand drug category.

10 B. 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 that
13 provides coverage for prescription drugs and for which cost-
14 sharing, deductibles or co-insurance obligations are determined
15 by the category or "tier" of the prescription drug shall not
16 reclassify drugs that are on a tier 4 or 5 to a higher tier of
17 the formulary during the term of the evidence of coverage.
18 When a drug is reclassified to a higher category or tier, the
19 administrator for the plan shall give the enrollee sixty days'
20 advance notice of the impending change.

21 C. The provisions of this section shall not apply
22 in the event that federal law requires the state to make
23 payments on behalf of enrollees to cover the costs of
24 implementing this section."

25 SECTION 2. A new section of Chapter 59A, Article 23 NMSA

.185125.1

underscoring material = new
[bracketed material] = delete

1 1978 is enacted to read:

2 "[NEW MATERIAL] PRESCRIPTION DRUG PRICE CONTROLS.--

3 A. A blanket or group health insurance policy or
4 contract that is delivered, issued for delivery or renewed in
5 this state that provides coverage for prescription drugs and
6 for which cost-sharing, deductibles or co-insurance obligations
7 are determined by the category or "tier" of the prescription
8 drug shall not impose cost-sharing, deductibles or co-insurance
9 obligations for any prescription drug that exceeds the dollar
10 amount of cost-sharing, deductibles or other co-insurance
11 obligations for:

12 (1) a non-preferred brand drug or its
13 equivalent; or

14 (2) a brand drug if there is no non-preferred
15 brand drug category.

16 B. A blanket or group health insurance policy or
17 contract that is delivered, issued for delivery or renewed in
18 this state that provides coverage for prescription drugs and
19 for which cost-sharing, deductibles or co-insurance obligations
20 are determined by the category or "tier" of the prescription
21 drug shall not reclassify drugs that are on a tier 4 or 5 to a
22 higher tier of the formulary during the term of the evidence of
23 coverage. When a drug is reclassified to a higher category or
24 tier, the administrator for the plan shall give the enrollee
25 sixty days' advance notice of the impending change.

.185125.1

underscored material = new
[bracketed material] = delete

1 C. The provisions of this section shall not apply
2 in the event that federal law requires the state to make
3 payments on behalf of enrollees to cover the costs of
4 implementing this section."

5 **SECTION 3.** A new section of the Health Maintenance
6 Organization Law is enacted to read:

7 "[NEW MATERIAL] PRESCRIPTION DRUG COST CONTROLS.--

8 A. An individual or group health maintenance
9 organization contract that is delivered, issued for delivery or
10 renewed in this state that provides coverage for prescription
11 drugs and for which cost-sharing, deductibles or co-insurance
12 obligations are determined by the category or "tier" of the
13 prescription drug shall not impose cost-sharing, deductibles or
14 co-insurance obligations for any prescription drug that exceeds
15 the dollar amount of cost-sharing, deductibles or other co-
16 insurance obligations for:

17 (1) a non-preferred brand drug or its
18 equivalent; or

19 (2) a brand drug if there is no non-preferred
20 brand drug category.

21 B. An individual or group health maintenance
22 organization contract that is delivered, issued for delivery or
23 renewed in this state that provides coverage for prescription
24 drugs and for which cost-sharing, deductibles or co-insurance
25 obligations are determined by the category or "tier" of the

.185125.1

underscoring material = new
[bracketed material] = delete

1 prescription drug shall not reclassify drugs that are on a tier
2 4 or 5 to a higher tier of the formulary during the term of the
3 evidence of coverage. When a drug is reclassified to a higher
4 category or tier, the administrator for the plan shall give the
5 enrollee sixty days' advance notice of the impending change.

6 C. The provisions of this section shall not apply
7 in the event that federal law requires the state to make
8 payments on behalf of enrollees to cover the costs of
9 implementing this section."

10 SECTION 4. A new section of the Nonprofit Health Care
11 Plan Law is enacted to read:

12 "[NEW MATERIAL] PRESCRIPTION DRUG PRICE CONTROLS.--

13 A. An individual or group health insurance policy,
14 health care plan or certificate of health insurance delivered
15 or issued for delivery in this state that is delivered, issued
16 for delivery or renewed in this state that provides coverage
17 for prescription drugs and for which cost-sharing, deductibles
18 or co-insurance obligations are determined by the category or
19 "tier" of the prescription drug shall not impose cost-sharing,
20 deductibles or co-insurance obligations for any prescription
21 drug that exceeds the dollar amount of cost-sharing,
22 deductibles or other co-insurance obligations for:

23 (1) a non-preferred brand drug or its
24 equivalent; or

25 (2) a brand drug if there is no non-preferred

.185125.1

underscoring material = new
~~[bracketed material] = delete~~

1 brand drug category.

2 B. An individual or group health insurance policy,
3 health care plan or certificate of health insurance that is
4 delivered, issued for delivery or renewed in this state that
5 provides coverage for prescription drugs and for which cost-
6 sharing, deductibles or co-insurance obligations are determined
7 by the category or "tier" of the prescription drug shall not
8 reclassify drugs that are on a tier 4 or 5 to a higher tier of
9 the formulary during the term of the evidence of coverage.
10 When a drug is reclassified to a higher category or tier, the
11 administrator for the plan shall give the enrollee sixty days'
12 advance notice of the impending change.

13 C. The provisions of this section shall not apply
14 in the event that federal law requires the state to make
15 payments on behalf of enrollees to cover the costs of
16 implementing this section."