

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 536

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

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 PROVIDE NOTICE TO  
ENROLLEES BEFORE IMPOSING COST-SHARING OBLIGATIONS APPLICABLE  
TO A NEW FORMULARY CLASSIFICATION FOR 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-

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underscored material = new  
[bracketed material] = delete

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

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

12 SECTION 2. A new section of Chapter 59A, Article 23 NMSA  
13 1978 is enacted to read:

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

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

25 B. The provisions of this section shall not apply

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1 in the event that federal law requires the state to make  
2 payments on behalf of enrollees to cover the costs of  
3 implementing this section."

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

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

7 A. An individual or group health maintenance  
8 organization contract that is delivered, issued for delivery or  
9 renewed in this state that provides coverage for prescription  
10 drugs and for which cost-sharing, deductibles or co-insurance  
11 obligations are determined by the category or "tier" of the  
12 prescription drug shall not reclassify drugs that are on a tier  
13 4 or 5 to a higher tier of the formulary during the term of the  
14 evidence of coverage. When a drug is reclassified to a higher  
15 category or tier, the administrator for the plan shall give the  
16 enrollee sixty days' advance notice of the impending change.

17 B. The provisions of this section shall not apply  
18 in the event that federal law requires the state to make  
19 payments on behalf of enrollees to cover the costs of  
20 implementing this section."

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

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

24 A. An individual or group health insurance policy,  
25 health care plan or certificate of health insurance that is

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

10 B. The provisions of this section shall not apply  
11 in the event that federal law requires the state to make  
12 payments on behalf of enrollees to cover the costs of  
13 implementing this section."