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HOUSE BILL 571

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

EDWARD C. SANDOVAL

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING COVERAGE FOR INDIVIDUALS WITH DIABETES; AMENDING AND ENACTING SECTIONS 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 Insurance Code, Section 59A-22-41 NMSA 1978, is enacted to read:

"59A-22-41. [NEW MATERIAL] COVERAGE FOR INDIVIDUALS WITH DIABETES. --

A. Each individual and group health insurance policy, health care plan, certificate of health insurance and managed health care plan delivered or issued for delivery in this state shall provide coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care benefit and shall entitle

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1 each individual to the medically accepted standard of medical  
2 care for diabetes and benefits for diabetes treatment as well as  
3 diabetes supplies, and this coverage shall not be reduced or  
4 eliminated.

5 B. Coverage for individuals with diabetes may be  
6 subject to deductibles and coinsurance consistent with those  
7 imposed on other benefits under the same policy, plan or  
8 certificate, as long as the annual deductibles or coinsurance  
9 for benefits are no greater than the annual deductibles or  
10 coinsurance established for similar benefits within a given  
11 policy.

12 C. When prescribed or diagnosed by a health care  
13 practitioner with prescribing authority, all individuals with  
14 diabetes as described in Subsection A of this section enrolled  
15 in health policies described in that subsection shall be  
16 entitled to the following equipment, supplies and appliances to  
17 treat diabetes:

18 (1) blood glucose monitors, including those for  
19 the legally blind;

20 (2) test strips for blood glucose monitors;

21 (3) visual reading urine and ketone strips;

22 (4) lancets and lancet devices;

23 (5) insulin;

24 (6) injection aids, including those adaptable  
25 to meet the needs of the legally blind;

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- 1 (7) syringes;
- 2 (8) prescriptive oral agents for controlling
- 3 blood sugar levels;
- 4 (9) podiatric appliances for prevention of feet
- 5 complications associated with diabetes, including therapeutic
- 6 molded or depth-inlay shoes, functional orthotics, custom molded
- 7 inserts, replacement inserts, preventive devices and shoe
- 8 modifications for prevention and treatment; and
- 9 (10) glucagon emergency kits.

10 D. When prescribed or diagnosed by a health care  
11 practitioner with prescribing authority, all individuals with  
12 diabetes as described in Subsection A of this section enrolled  
13 in health policies described in that subsection shall be  
14 entitled to the following basic health care benefits:

15 (1) diabetes self-management training that  
16 shall be provided by a certified, registered or licensed health  
17 care professional with recent education in diabetes management,  
18 which shall be limited to:

19 (a) medically necessary visits upon the  
20 diagnosis of diabetes;

21 (b) visits following a physician  
22 diagnosis that represents a significant change in the patient's  
23 symptoms or condition that warrants changes in the patient's  
24 self-management; and

25 (c) visits when re-education or refresher

1 training is prescribed by a health care practitioner with  
2 prescribing authority; and

3 (2) medical nutrition therapy related to  
4 diabetes management.

5 E. When new or improved equipment, appliances,  
6 prescription drugs for the treatment of diabetes, insulin or  
7 supplies for the treatment of diabetes are approved by the food  
8 and drug administration, all individual or group health  
9 insurance policies as described in Subsection A of this section  
10 shall:

11 (1) maintain an adequate formulary to provide  
12 these resources to individuals with diabetes; and

13 (2) guarantee reimbursement or coverage for the  
14 equipment, appliances, prescription drug, insulin or supplies  
15 described in this subsection within the limits of the health  
16 care plan, policy or certificate.

17 F. The provisions of Subsections A through E of this  
18 section shall be enforced by the superintendent.

19 G. The provisions of this section shall not apply to  
20 short-term travel, accident-only or limited or specified disease  
21 policies.

22 H. For purposes of this section:

23 (1) "basic health care benefits":

24 (a) means benefits for medically  
25 necessary services consisting of preventive care, emergency

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1 care, inpatient and outpatient hospital and physician care,  
2 diagnostic laboratory and diagnostic and therapeutic  
3 radiological services; and

4 (b) does not include mental health  
5 services or services for alcohol or drug abuse, dental or vision  
6 services or long-term rehabilitation treatment; and

7 (2) "managed health care plan" means a health  
8 benefit plan offered by a health care insurer that provides for  
9 the delivery of comprehensive basic health care services and  
10 medically necessary services to individuals enrolled in the plan  
11 through its own employed health care providers or by contracting  
12 with selected or participating health care providers. A managed  
13 health care plan includes only those plans that provide  
14 comprehensive basic health care services to enrollees on a  
15 prepaid, capitated basis, including the following:

- 16 (a) health maintenance organizations;
- 17 (b) preferred provider organizations;
- 18 (c) individual practice associations;
- 19 (d) competitive medical plans;
- 20 (e) exclusive provider organizations;
- 21 (f) integrated delivery systems;
- 22 (g) independent physician-provider  
23 organizations;
- 24 (h) physician hospital-provider  
25 organizations; and

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1 (i) managed care services organizations. "

2 Section 2. Section 59A-23-4 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 463, as amended) is amended to read:

4 "59A-23-4. OTHER PROVISIONS APPLICABLE. --

5 A. No blanket or group health insurance policy or  
6 contract shall contain any provision relative to notice or proof  
7 of loss or the time for paying benefits or the time within which  
8 suit may be brought upon the policy that in the superintendent's  
9 opinion is less favorable to the insured than would be permitted  
10 in the required or optional provisions for individual health  
11 insurance policies as set forth in Chapter 59A, Article 22 NMSA  
12 1978.

13 B. The following provisions of Chapter 59A, Article  
14 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23 NMSA  
15 1978 and blanket and group health insurance contracts:

16 (1) Section 59A-22-1 NMSA 1978, except  
17 Subsection C [~~thereof~~] of that section; and

18 (2) Section 59A-22-32 NMSA 1978.

19 C. The following provisions of Chapter 59A, Article  
20 22 NMSA 1978 shall also apply as to group health insurance  
21 contracts:

22 (1) Section 59A-22-33 NMSA 1978;

23 (2) Section 59A-22-34 NMSA 1978;

24 (3) Section 59A-22-34.1 NMSA 1978;

25 (4) Section 59A-22-35 NMSA 1978;

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- 1 (5) Section 59A-22-36 NMSA 1978;
- 2 (6) Section 59A-22-39 NMSA 1978; [~~and~~]
- 3 (7) Section 59A-22-40 NMSA 1978; and
- 4 (8) Section 59A-22-41 NMSA 1978. "

5 Section 3. A new section of the Health Maintenance  
6 Organization Law, Section 59A-46-43 NMSA 1978, is enacted to  
7 read:

8 "59A-46-43. [NEW MATERIAL] COVERAGE FOR INDIVIDUALS WITH  
9 DIABETES. --

10 A. Each individual and group health maintenance  
11 organization contract delivered or issued for delivery in this  
12 state shall provide coverage for individuals with insulin-using  
13 diabetes, with non-insulin-using diabetes and with elevated  
14 blood glucose levels induced by pregnancy. This coverage shall  
15 be a basic health care service and shall entitle each individual  
16 to the medically accepted standard of medical care for diabetes  
17 and benefits for diabetes treatment as well as diabetes  
18 supplies, and this coverage shall not be reduced or eliminated.

19 B. Coverage for individuals with diabetes may be  
20 subject to deductibles and coinsurance consistent with those  
21 imposed on other benefits under the same contract, as long as  
22 the annual deductibles or coinsurance for benefits are no  
23 greater than the annual deductibles or coinsurance established  
24 for similar benefits within a given contract.

25 C. When prescribed or diagnosed by a health care

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1 practitioner with prescribing authority, all individuals with  
2 diabetes as described in Subsection A of this section enrolled  
3 under an individual or group health maintenance organization  
4 contract shall be entitled to the following equipment, supplies  
5 and appliances to treat diabetes:

6 (1) blood glucose monitors, including those for  
7 the legally blind;

8 (2) test strips for blood glucose monitors;

9 (3) visual reading urine and ketone strips;

10 (4) lancets and lancet devices;

11 (5) insulin;

12 (6) injection aids, including those adaptable  
13 to meet the needs of the legally blind;

14 (7) syringes;

15 (8) prescriptive oral agents for controlling  
16 blood sugar levels;

17 (9) podiatric appliances for prevention of feet  
18 complications associated with diabetes, including therapeutic  
19 molded or depth-inlay shoes, functional orthotics, custom molded  
20 inserts, replacement inserts, preventive devices and shoe  
21 modifications for prevention and treatment; and

22 (10) glucagon emergency kits.

23 D. When prescribed or diagnosed by a health care  
24 practitioner with prescribing authority, all individuals with  
25 diabetes as described in Subsection A of this section enrolled

1 under an individual or group health maintenance contract shall  
2 be entitled to the following basic health care services:

3 (1) diabetes self-management training that  
4 shall be provided by a certified, registered or licensed health  
5 care professional with recent education in diabetes management,  
6 which shall be limited to:

7 (a) medically necessary visits upon the  
8 diagnosis of diabetes;

9 (b) visits following a physician  
10 diagnosis that represents a significant change in the patient's  
11 symptoms or condition that warrants changes in the patient's  
12 self-management; and

13 (c) visits when re-education or refresher  
14 training is prescribed by a health care practitioner with  
15 prescribing authority; and

16 (2) medical nutrition therapy related to  
17 diabetes management.

18 E. When new or improved equipment, appliances,  
19 prescription drugs for the treatment of diabetes, insulin or  
20 supplies for the treatment of diabetes are approved by the food  
21 and drug administration, each individual or group health  
22 maintenance organization contract shall:

23 (1) maintain an adequate formulary to provide  
24 these resources to individuals with diabetes; and

25 (2) guarantee reimbursement or coverage for the

1 equipment, appliances, prescription drug, insulin or supplies  
2 described in this subsection within the limits of the health  
3 care plan, policy or certificate.

4 F. The provisions of Subsections A through E of this  
5 section shall be enforced by the superintendent.

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

9 Section 4. Section 59A-47-33 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 879.32, as amended by Laws 1994, Chapter  
11 64, Section 10 and also by Laws 1994, Chapter 75, Section 34) is  
12 amended to read:

13 "59A-47-33. OTHER PROVISIONS APPLICABLE. -- The provisions  
14 of the Insurance Code other than Chapter 59A, Article 47 NMSA  
15 1978 shall not apply to health care plans except as expressly  
16 provided in the Insurance Code and that article. To the extent  
17 reasonable and not inconsistent with the provisions of that  
18 article, the following articles and provisions of the Insurance  
19 Code shall also apply to health care plans, their promoters,  
20 sponsors, directors, officers, employees, agents, solicitors and  
21 other representatives; and, for the purposes of such  
22 applicability, a health care plan may therein be referred to as  
23 an "insurer":

24 A. Chapter 59A, Article 1 NMSA 1978;

25 B. Chapter 59A, Article 2 NMSA 1978;

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- 1 C. Chapter 59A, Article 4 NMSA 1978;
- 2 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 3 E. Sections 59A-6-2 through 59A-6-4 and
- 4 59A-6-6 NMSA 1978;
- 5 F. Section 59A-7-11 NMSA 1978;
- 6 G. Chapter 59A, Article 8 NMSA 1978;
- 7 H. Chapter 59A, Article 10 NMSA 1978;
- 8 I. Section 59A-12-22 NMSA 1978;
- 9 J. Chapter 59A, Article 16 NMSA 1978;
- 10 K. Chapter 59A, Article 18 NMSA 1978;
- 11 L. Chapter 59A, Article 19 NMSA 1978;
- 12 M. Subsections B through E of Section
- 13 59A-22-5 NMSA 1978;
- 14 N. Section 59A-22-34.1 NMSA 1978;
- 15 O. Section 59A-22-39 NMSA 1978;
- 16 P. Section 59A-22-40 NMSA 1978;
- 17 Q. Section 59A-22-41 NMSA 1978;
- 18 [~~Q.~~] R. Sections 59A-34-9 through 59A-34-13 [~~NMSA~~
- 19 ~~1978~~] and [~~Section~~] 59A-34-23 NMSA 1978;
- 20 [~~R.~~] S. Chapter 59A, Article 37 NMSA 1978, except
- 21 Section 59A-37-7 NMSA 1978; and
- 22 [~~S.~~] T. Section 59A-46-15 NMSA 1978. "

23 Section 5. EFFECTIVE DATE. -- The effective date of the  
24 provisions of this act is January 1, 1998.

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 20, 1997

Mr. Speaker:

Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom has been referred

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has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 3, line 4, after "(9)" insert "medically necessary".

2. On page 8, line 17, after "(9)" insert "medically necessary".

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Respectfully submitted,

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Gary King, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Rios, Vigil

Absent: None

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