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HOUSE BILL 396

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO THE NEW MEXICO INSURANCE CODE; ENACTING THE OPEN  
ACCESS TO CHIROPRACTIC CARE ACT; PROVIDING THAT COVERED  
PERSONS UNDER MANAGED HEALTH CARE PLANS MAY RECEIVE  
CHIROPRACTIC CARE FROM THE CHIROPRACTIC PHYSICIAN OF THEIR  
CHOICE.

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

Section 1. Section 59A-46-30 NMSA 1978 (being Laws 1993,  
Chapter 266, Section 29, as amended) is amended to read:

"59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO  
OTHER LAWS. --

A. The provisions of the Insurance Code other than  
Chapter 59A, Article 46 NMSA 1978 shall not apply to health  
maintenance organizations except as expressly provided in the  
Insurance Code and that article. To the extent reasonable and

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1 not inconsistent with the provisions of that article, the  
2 following articles and provisions of the Insurance Code shall  
3 also apply to health maintenance organizations and their  
4 promoters, sponsors, directors, officers, employees, agents,  
5 solicitors and other representatives. For the purposes of  
6 such applicability, a health maintenance organization may  
7 therein be referred to as an "insurer":

8 (1) Chapter 59A, Article 1 NMSA 1978;

9 (2) Chapter 59A, Article 2 NMSA 1978;

10 [~~(3)~~] ~~Chapter 59A, Article 3 NMSA 1978;~~

11 ~~(4)~~ (3) Chapter 59A, Article 4 NMSA 1978;

12 [~~(5)~~] (4) Subsection C of Section 59A-5-22  
13 NMSA 1978;

14 [~~(6)~~] (5) Sections 59A-6-2 through 59A-6-4  
15 and 59A-6-6 NMSA 1978;

16 [~~(7)~~] (6) Chapter 59A, Article 8 NMSA 1978;

17 [~~(8)~~] (7) Chapter 59A, Article 10 NMSA 1978;

18 [~~(9)~~] (8) Section 59A-12-22 NMSA 1978;

19 [~~(10)~~] (9) Chapter 59A, Article 16 NMSA 1978;  
20 [~~(11)~~] (10) Chapter 59A, Article 18 NMSA  
21 1978;

22 [~~(12)~~] (11) Chapter 59A, Article 19 NMSA  
23 1978;

24 [~~(13)~~] (12) Section 59A-22-14 NMSA 1978;

25 [~~(14)~~] (13) Chapter 59A, Article 23B NMSA

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1 1978;

2 [~~(15)~~] (14) Sections 59A-34-9 through  
3 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-36 and 59A-34-37 NMSA  
4 1978;

5 [~~(16)~~] (15) Chapter 59A, Article 37 NMSA  
6 1978; [~~and~~  
7 ~~(17)~~] (16) the Patient Protection Act; and  
8 (17) the Open Access to Chiropractic Care  
9 Act.

10 B. Solicitation of enrollees by a health  
11 maintenance organization granted a certificate of authority,  
12 or its representatives, shall not be construed as violating  
13 any provision of law relating to solicitation or advertising  
14 by health professionals, but health professionals shall be  
15 individually subject to the laws, rules, regulations and  
16 ethical provisions governing their individual professions.

17 C. Any health maintenance organization authorized  
18 under the provisions of the Health Maintenance Organization  
19 Law shall not be deemed to be practicing medicine and shall be  
20 exempt from the provisions of laws relating to the practice of  
21 medicine. "

22 Section 2. A new Section 59A-58-1 NMSA 1978 is enacted  
23 to read:

24 "59A-58-1. [NEW MATERIAL] SHORT TITLE. -- Sections  
25 59A-58-1 through 59A-58-9 NMSA 1978 may be cited as the "Open

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1 Access to Chiropractic Care Act". "

2 Section 3. A new Section 59A-58-2 NMSA 1978 is enacted  
3 to read:

4 "59A-58-2. [NEW MATERIAL] PURPOSE. --The purpose of the  
5 Open Access to Chiropractic Care Act is to ensure that all New  
6 Mexicans have open access to chiropractic care and are able to  
7 receive chiropractic care from the chiropractic physician of  
8 their choice at affordable prices. "

9 Section 4. A new Section 59A-58-3 NMSA 1978 is enacted  
10 to read:

11 "59A-58-3. [NEW MATERIAL] DEFINITIONS. --As used in the  
12 Open Access to Chiropractic Care Act:

13 A. "chiropractic care" means any service provided  
14 by a chiropractic physician pursuant to the Chiropractic  
15 Physician Practice Act;

16 B. "covered person" means an individual who is  
17 entitled to receive health care benefits provided by a managed  
18 health care plan;

19 C. "managed health care plan" means a health care  
20 insurer or a provider service network when offering a benefit  
21 that either requires a covered person to use, or creates  
22 incentives, including financial incentives, for a covered  
23 person to use health care providers managed, owned, under  
24 contract with or employed by the health care insurer or  
25 provider service network. "Managed health care plan" includes

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1 a health maintenance organization but does not include a  
2 health care insurer or provider service network offering a  
3 traditional fee-for-service indemnity benefit or a benefit  
4 that covers only short-term travel, accident-only, limited  
5 benefit, student health plan or specified disease policies;

6 D. "participating chiropractic provider" means an  
7 individual who is registered by a managed health care plan as  
8 a participating chiropractic provider and:

9 (1) is a graduate of a school of chiropractic  
10 accredited by the council on chiropractic education;

11 (2) is licensed as a chiropractic physician  
12 in good standing pursuant to the Chiropractic Physician  
13 Practice Act; and

14 (3) maintains professional liability  
15 insurance in a minimum amount of six hundred thousand dollars  
16 (\$600,000); and

17 E. "primary care chiropractic physician" is an  
18 individual who is registered by a managed health care plan as  
19 a primary care chiropractic physician and:

20 (1) meets the requirements for a  
21 participating chiropractic provider; and

22 (2) prior to January 1, 2001, is certified in  
23 chiropractic orthopedics or in chiropractic neurology; or

24 (3) subsequent to December 31, 2000, is  
25 certified in integrative medicine. "

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1           Section 5. A new Section 59A-58-4 NMSA 1978 is enacted  
2 to read:

3           "59A-58-4. [NEW MATERIAL] CHIROPRACTIC CARE REQUIRED. -- A  
4 managed health care plan shall provide chiropractic care as a  
5 basic health care benefit. A covered individual who wishes to  
6 receive chiropractic care shall be afforded the opportunity to  
7 select a participating chiropractic provider and a primary  
8 care chiropractic physician from a written list of  
9 participating chiropractic providers and primary care  
10 chiropractic physicians provided by the managed health care  
11 plan to the covered person. "

12           Section 6. A new Section 59A-58-5 NMSA 1978 is enacted  
13 to read:

14           "59A-58-5. [NEW MATERIAL] PROCEDURES FOR CHIROPRACTIC  
15 CARE. -- A covered person shall receive chiropractic care under  
16 the procedures and subject to the limitations in this section.

17           A. A covered individual shall select a  
18 participating chiropractic provider and a primary care  
19 chiropractic physician from the list provided by the managed  
20 health care plan.

21           B. The selected participating chiropractic  
22 provider shall examine the covered individual in a manner  
23 sufficient to permit the participating chiropractic provider  
24 to prepare an initial chiropractic care treatment plan.

25           C. The participating chiropractic provider shall

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1 provide the initial chiropractic care treatment plan to the  
2 selected primary care chiropractic physician.

3 D. The primary care chiropractic physician shall  
4 review the initial chiropractic care treatment plan and advise  
5 the participating chiropractic provider if the plan is  
6 acceptable. If the primary care chiropractic physician finds  
7 the initial plan to be acceptable, the participating  
8 chiropractic provider shall provide chiropractic care to the  
9 covered individual pursuant to the plan, provided that costs  
10 paid by a managed health care plan for chiropractic care  
11 described in the initial plan shall not exceed five hundred  
12 dollars (\$500) annually.

13 E. The participating chiropractic provider shall  
14 notify the primary care chiropractic physician and submit an  
15 additional chiropractic care treatment plan if the  
16 participating chiropractic provider determines that additional  
17 chiropractic care is required in addition to that approved in  
18 the initial chiropractic care treatment plan, or in a  
19 previously approved additional chiropractic care treatment  
20 plan. Upon receipt of the notification and plan, the primary  
21 care chiropractic physician shall physically examine the  
22 covered person in a manner sufficient to ensure that the  
23 additional chiropractic care is required. If the primary care  
24 chiropractic physician finds the additional chiropractic care  
25 treatment plan to be acceptable, the participating

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1 chiropractic provider shall provide chiropractic care to the  
2 covered person as described in the plan, provided that costs  
3 paid by a managed health care plan for chiropractic care  
4 described in one or more additional chiropractic care  
5 treatment plans shall not exceed five hundred dollars (\$500)  
6 annually.

7 F. If a primary care chiropractic physician  
8 disagrees with the substance of either the initial or an  
9 additional chiropractic care treatment plan, the primary care  
10 chiropractic physician and the participating chiropractic  
11 provider shall make a good faith effort to resolve the  
12 disagreement. If the disagreement cannot be resolved by the  
13 primary care chiropractic physician and the participating  
14 chiropractic provider, the managed health care plan shall  
15 resolve the matter. The decision of the managed health care  
16 plan is binding on the primary care chiropractic physician and  
17 the participating chiropractic provider; provided that the  
18 participating chiropractic provider may choose not to provide  
19 chiropractic care to the covered person if the participating  
20 chiropractic provider disagrees with the decision of the  
21 managed health care plan. "

22 Section 7. A new Section 59A-58-6 NMSA 1978 is enacted  
23 to read:

24 "59A-58-6. [NEW MATERIAL] ADDITIONAL CHIROPRACTIC  
25 CARE. -- Chiropractic care provided under the Open Access to

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1 Chiropractic Care Act is in addition to any other chiropractic  
2 care that may be provided under other provisions of the  
3 Insurance Code or as otherwise provided by law. "

4 Section 8. A new Section 59A-58-7 NMSA 1978 is enacted  
5 to read:

6 "59A-58-7. [NEW MATERIAL] PARTICIPATING CHIROPRACTIC  
7 PROVIDER AND PRIMARY CARE CHIROPRACTIC PHYSICIAN EXCLUSIVITY--  
8 ANNUAL PAYMENTS TO A PRIMARY CARE CHIROPRACTIC PHYSICIAN. --

9 A. For the same covered person, a chiropractic  
10 physician shall not serve as both the participating  
11 chiropractic provider and the primary care chiropractic  
12 physician.

13 B. A primary care chiropractic physician shall be  
14 paid an annual consultation fee of two hundred dollars (\$200)  
15 by the managed health care plan for the professional  
16 management of a covered person who receives chiropractic care  
17 under the provisions of the Open Access to Chiropractic Care  
18 Act. "

19 Section 9. A new Section 59A-58-8 NMSA 1978 is enacted  
20 to read:

21 "59A-58-8. [NEW MATERIAL] PREMIUMS-- COPAYMENTS--  
22 LIMITATIONS. --

23 A. For providing coverage required by the Open  
24 Access to Chiropractic Care Act, a managed health care plan  
25 may require the payment of an annual premium of not more than

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1 one hundred eighty dollars (\$180) for each covered person.

2 B. A managed health care plan may require a  
3 covered person to make a copayment of not more than ten  
4 dollars (\$10.00) for each time that chiropractic care is  
5 provided by a participating chiropractic provider or  
6 chiropractic care consultation, including a physical  
7 examination, is provided by a primary care chiropractic  
8 physician. "

9 Section 10. A new Section 59A-58-9 NMSA 1978 is enacted  
10 to read:

11 "59A-58-9. [NEW MATERIAL] NEW MEXICO LICENSE REQUIRED. --

12 A. Professional supervision of a participating  
13 chiropractic provider or a primary care chiropractic physician  
14 performing chiropractic care under the Open Access to  
15 Chiropractic Care Act may only be provided by a chiropractic  
16 physician licensed pursuant to the Chiropractic Physician  
17 Practice Act.

18 B. A chiropractic physician licensed pursuant to  
19 the Chiropractic Physician Practice Act may seek registration  
20 by a managed health care plan pursuant to the Open Access to  
21 Chiropractic Care Act as a participating chiropractic  
22 provider, a primary care chiropractic physician or both. "