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SENATE BILL

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

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 REQUIRE NOTICE TO ENROLLEES BEFORE RECLASSIFYING PRESCRIPTION DRUGS OR REMOVING PRESCRIPTION DRUGS FROM THE FORMULARY; 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 DRUGS--COST-SHARING LIMITATIONS.--

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 and that

.187243.2

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 provides prescription drug benefits categorized or tiered for  
2 purposes of cost-sharing through deductibles or co-insurance  
3 obligations shall not, prior to the annual anniversary date of  
4 the policy, plan or certificate:

5 (1) reclassify a drug to a higher tier of the  
6 formulary;

7 (2) reclassify a drug from a preferred  
8 classification to a non-preferred classification, unless that  
9 reclassification results in the drug moving to a lower tier; or

10 (3) increase cost-sharing, copayment, deductible  
11 or coinsurance charges for a drug.

12 B. When it is determined that a drug will be  
13 reclassified or removed from the formulary, the administrator  
14 for the policy, plan or certificate shall give the enrollee at  
15 least sixty days' advance notice of the impending change.

16 C. The provisions of this section shall not apply  
17 in the event that federal law requires the state to make  
18 payments on behalf of enrollees to cover the difference in cost  
19 between preferred drugs and non-preferred drugs."

20 SECTION 2. A new section of Chapter 59A, Article 23 NMSA  
21 1978 is enacted to read:

22 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING  
23 LIMITATIONS.--

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

.187243.2

underscored material = new  
[bracketed material] = delete

1 delivered, issued for delivery or renewed in this state and  
2 that provides prescription drug benefits categorized or tiered  
3 for purposes of cost-sharing through deductibles or co-  
4 insurance obligations shall not, prior to the annual  
5 anniversary date of the policy, plan or certificate:

6 (1) reclassify a drug to a higher tier of the  
7 formulary;

8 (2) reclassify a drug from a preferred  
9 classification to a non-preferred classification, unless that  
10 reclassification results in the drug moving to a lower tier; or

11 (3) increase cost-sharing, copayment, deductible  
12 or coinsurance charges for a drug.

13 B. When it is determined that a drug will be  
14 reclassified or removed from the formulary, the administrator  
15 for the policy, plan or certificate shall give the enrollee at  
16 least sixty days' advance notice of the impending change.

17 C. 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 difference in cost  
20 between preferred drugs and non-preferred drugs."

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

23 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING  
24 LIMITATIONS.--

25 A. An individual or group health insurance policy,

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underscored material = new  
[bracketed material] = delete

1 health care plan or certificate of health insurance that is  
2 delivered, issued for delivery or renewed in this state and  
3 that provides prescription drug benefits categorized or tiered  
4 for purposes of cost-sharing through deductibles or co-  
5 insurance obligations shall not, prior to the annual  
6 anniversary date of the policy, plan or certificate:

7 (1) reclassify a drug to a higher tier of the  
8 formulary;

9 (2) reclassify a drug from a preferred  
10 classification to a non-preferred classification, unless that  
11 reclassification results in the drug moving to a lower tier; or

12 (3) increase cost-sharing, copayment, deductible  
13 or coinsurance charges for a drug.

14 B. When it is determined that a drug will be  
15 reclassified, the administrator for the policy, plan or  
16 certificate shall give the enrollee at least sixty days'  
17 advance notice of the impending change.

18 C. The provisions of this section shall not apply  
19 in the event that federal law requires the state to make  
20 payments on behalf of enrollees to cover the difference in cost  
21 between preferred drugs and non-preferred drugs."

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

24 "[NEW MATERIAL] PRESCRIPTION DRUGS--COST-SHARING  
25 LIMITATIONS.--

.187243.2

1           A. An individual or group health insurance policy,  
2 health care plan or certificate of health insurance that is  
3 delivered, issued for delivery or renewed in this state and  
4 that provides prescription drug benefits categorized or tiered  
5 for purposes of cost-sharing through deductibles or co-  
6 insurance obligations shall not, prior to the annual  
7 anniversary date of the policy, plan or certificate:

8                   (1) reclassify a drug to a higher tier of the  
9 formulary;

10                   (2) reclassify a drug from a preferred  
11 classification to a non-preferred classification, unless that  
12 reclassification results in the drug moving to a lower tier; or

13                   (3) increase cost-sharing, copayment, deductible  
14 or coinsurance charges for a drug.

15           B. When it is determined that a drug will be  
16 reclassified, the administrator for the policy, plan or  
17 certificate shall give the enrollee at least sixty days'  
18 advance notice of the impending change.

19           C. The provisions of this section shall not apply  
20 in the event that federal law requires the state to make  
21 payments on behalf of enrollees to cover the difference in cost  
22 between preferred drugs and non-preferred drugs."