

1 HB204
2 195875-3
3 By Representative Johnson
4 RFD: Insurance
5 First Read: 19-MAR-19

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8 SYNOPSIS: This bill would require a health benefit
9 plan to include coverage for prosthetic and
10 orthotic devices under certain conditions.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
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16 To require health benefit plans to include certain
17 coverage for prosthetic and orthotic devices under certain
18 conditions; and to amend Sections 10A-20-6.16 and 27-21A-23,
19 Code of Alabama 1975, relating to health care service plans
20 and health maintenance organizations to further provide for
21 the coverage.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) As used in this section, the
24 following words have the following meanings:

25 (1) HEALTH BENEFIT PLAN. Any group insurance plan,
26 policy, or contract for health care services that covers
27 hospital, medical, or surgical expenses, health maintenance

1 organizations, preferred provider organizations, medical
2 service organizations, physician-hospital organizations, or
3 any other person, firm, corporation, joint venture, or other
4 similar business entity that pays for, purchases, or furnishes
5 group health care services to patients, insureds, or
6 beneficiaries in this state. For the purposes of this section,
7 a health benefit plan located or domiciled outside of the
8 State of Alabama is deemed to be subject to this section if
9 the plan, policy, or contract is issued or delivered in the
10 State of Alabama. The term includes, but is not limited to,
11 entities created pursuant to Article 6, Chapter 20, Title 10A.
12 On and after December 31, 2020, the term includes health
13 insurance plans administered or offered by the State Employees
14 Insurance Board and the Public Education Employees Health
15 Insurance Plan. The term does not include the Alabama Health
16 Insurance Plan or the Alabama Small Employer Allocation
17 Program provided in Chapter 52 of this title. The term also
18 includes the terms health insurance policy and health
19 insurance plan. The term does not include non-grandfathered
20 plans in the individual and small group markets that were
21 required to provide essential health benefits under the
22 Patient Protection and Affordable Care Act, or accident-only,
23 specified disease, individual hospital indemnity, credit,
24 dental-only, Medicare-supplement, long-term care, or
25 disability income insurance, other limited benefit health
26 insurance policies, coverage issued as a supplemental to

1 liability insurance, workers' compensation or similar
2 insurance, or automobile medical-payment insurance.

3 (2) ORTHOTIC DEVICE. A custom orthosis as defined in
4 Section 34-25A-3, Code of Alabama 1975.

5 (3) PROSTHETIC DEVICE. A custom prosthesis as defined
6 in Section 34-25A-3, Code of Alabama 1975.

7 (b) Any health benefit plan providing coverage for
8 hospital, medical, or surgical expenses shall provide coverage
9 for benefits for custom prosthetic and orthotic devices that
10 are at least equivalent to that provided by the federal
11 Medicare program and no less favorable than the terms and
12 conditions for the medical and surgical benefits in the
13 policy. The health benefit plan shall cover the most
14 appropriate prosthetic and orthotic devices that are
15 determined to be medically necessary by the treating physician
16 to restore functionality to optimal levels. The coverage
17 required shall include all services and supplies necessary for
18 the effective use of a custom prosthetic or orthotic device,
19 including formulating its design, fabrication, material, and
20 component selection, measurements, fittings, static and
21 dynamic alignments, and instructing the patient in the use of
22 the device and all materials and components necessary to use
23 the device.

24 (c) The reimbursement rate for prosthetic and
25 orthotic devices in a health benefit plan shall be at least
26 equivalent to that provided by the federal Medicare program
27 and no more restrictive than other benefits in the plan and

1 shall be comparable to coverage of restorative internal
2 devices. The coverage required shall include any repair or
3 replacement of a prosthetic or orthotic device that is
4 determined medically necessary to restore or maintain the
5 ability to complete activities of daily living or essential
6 job-related activities and that is not solely for comfort or
7 convenience.

8 (d) Prosthetic and orthotic device benefits may not
9 be subject to separate financial requirements that are
10 applicable only with respect to the benefits. A health benefit
11 plan may impose copayment or coinsurance amounts on prosthetic
12 and orthotic benefits, except any financial requirements
13 applicable to the benefits may not be more restrictive than
14 the financial requirements applicable to the plan's medical
15 and surgical benefits, including those for internal devices.

16 (e) A health benefit plan may limit the benefits for
17 or alter the financial requirements for out-of-network
18 coverage of prosthetic and orthotic devices, except the
19 restrictions and requirements applicable to the benefits may
20 not be more restrictive than the financial requirements
21 applicable to the out-of-network coverage for the plan's
22 medical and surgical benefits.

23 (f) The requirements of this section shall apply
24 separately with respect to benefits provided under the plan on
25 an in-network basis and benefits provided under the plan on an
26 out-of-network basis.

1 (g) A health benefit plan may not impose any annual
2 or lifetime dollar maximum on coverage for prosthetic and
3 orthotic devices other than an annual or lifetime dollar
4 maximum that applies in the aggregate to all terms and
5 services covered under the policy.

6 (h) If coverage for prosthetic and orthotic devices
7 is provided through a managed care plan, the insured shall
8 have access to medically necessary clinical care and to
9 prosthetic and orthotic devices and technology from not less
10 than two distinct prosthetic and orthotic device providers in
11 this state in the managed care plan's provider network.

12 Section 2. Sections 10A-20-6.16 and 27-21A-23, Code
13 of Alabama 1975, are amended to read as follows:

14 "§10A-20-6.16.

15 "(a) No statute of this state applying to insurance
16 companies shall be applicable to any corporation organized
17 under this article and amendments thereto or to any contract
18 made by the corporation; except the corporation shall be
19 subject to the following:

20 "(1) The provisions regarding annual premium tax to
21 be paid by insurers on insurance premiums.

22 "(2) Chapter 55 of Title 27, regarding the
23 prohibition of unfair discriminatory acts by insurers on the
24 basis of an applicant's or insured's abuse status.

25 "(3) The Medicare Supplement Minimum Standards set
26 forth in Article 2 of Chapter 19 of Title 27, and Long-Term

1 Care Insurance Policy Minimum Standards set forth in Article 3
2 of Chapter 19 of Title 27.

3 "(4) Section 27-1-17, requiring insurers and health
4 plans to pay health care providers in a timely manner.

5 "(5) Chapter 56 of Title 27, regarding the Access to
6 Eye Care Act.

7 "(6) Rules promulgated by the Commissioner of
8 Insurance pursuant to Sections 27-7-43 and 27-7-44.

9 "(7) Chapter 54 of Title 27.

10 "(8) Chapter 57 of Title 27, requiring coverage to
11 be offered for the payment of colorectal cancer examinations
12 for covered persons who are 50 years of age or older, or for
13 covered persons who are less than 50 years of age and at high
14 risk for colorectal cancer according to current American
15 Cancer Society colorectal cancer screening guidelines.

16 "(9) Chapter 58 of Title 27, requiring that policies
17 and contracts including coverage for prostate cancer early
18 detection be offered, together with identification of
19 associated costs.

20 "(10) Chapter 59 of Title 27, requiring that
21 policies and contracts including coverage for chiropractic be
22 offered, together with identification of associated costs.

23 "(11) Chapter 54A of Title 27, requiring that
24 policies and contracts to offer coverage for certain treatment
25 for Autism Spectrum Disorder under certain conditions.

26 "(12) Chapter 12A of Title 27.

27 "(13) Chapter 2B of Title 27.

1 "(14) Chapter 29 of Title 27.

2 "(15) Section 1 of the act adding this subdivision
3 requiring coverage for prosthetic and orthotic devices.

4 "(b) The provisions in subsection (a) that require
5 specific types of coverage to be offered or provided shall not
6 apply when the corporation is administering a self-funded
7 benefit plan or similar plan, fund, or program that it does
8 not insure.

9 "§27-21A-23.

10 "(a) Except as otherwise provided in this chapter,
11 provisions of the insurance law and provisions of health care
12 service plan laws shall not be applicable to any health
13 maintenance organization granted a certificate of authority
14 under this chapter. This provision shall not apply to an
15 insurer or health care service plan licensed and regulated
16 pursuant to the insurance law or the health care service plan
17 laws of this state except with respect to its health
18 maintenance organization activities authorized and regulated
19 pursuant to this chapter.

20 "(b) Solicitation of enrollees by a health
21 maintenance organization granted a certificate of authority
22 shall not be construed to violate any provision of law
23 relating to solicitation or advertising by health
24 professionals.

25 "(c) Any health maintenance organization authorized
26 under this chapter shall not be deemed to be practicing

1 medicine and shall be exempt from the provisions of Section
2 34-24-310, et seq., relating to the practice of medicine.

3 "(d) No person participating in the arrangements of
4 a health maintenance organization other than the actual
5 provider of health care services or supplies directly to
6 enrollees and their families shall be liable for negligence,
7 misfeasance, nonfeasance, or malpractice in connection with
8 the furnishing of such services and supplies.

9 "(e) Nothing in this chapter shall be construed in
10 any way to repeal or conflict with any provision of the
11 certificate of need law.

12 "(f) Notwithstanding the provisions of subsection
13 (a), a health maintenance organization shall be subject to all
14 of the following:

15 "(1) Section 27-1-17.

16 "(2) Chapter 56, regarding the Access to Eye Care
17 Act.

18 "(3) Chapter 54, regarding mental illness coverage.

19 "(4) Chapter 57, requiring coverage to be offered
20 for the payment of colorectal cancer examinations for covered
21 persons who are 50 years of age or older, or for covered
22 persons who are less than 50 years of age and at high risk for
23 colorectal cancer according to current American Cancer Society
24 colorectal cancer screening guidelines.

25 "(5) Chapter 58, requiring that policies and
26 contracts including coverage for prostate cancer early

1 detection be offered, together with identification of
2 associated costs.

3 "(6) Chapter 59, requiring that policies and
4 contracts including coverage for chiropractic be offered,
5 together with identification of associated costs.

6 "(7) Rules promulgated by the Commissioner of
7 Insurance pursuant to Sections 27-7-43 and 27-7-44.

8 "(8) Chapter 12A.

9 "(9) Chapter 54A, requiring policies and contracts
10 to cover certain treatment for Autism Spectrum Disorder under
11 certain conditions.

12 "(10) Chapter 2B, regarding risk-based capital.

13 "(11) Chapter 29, regarding insurance holding
14 company systems.

15 "(12) Section 1 of the act adding this subdivision
16 requiring coverage for prosthetic and orthotic devices."

17 Section 3. This act shall become effective on
18 October 1, 2019.