

1 HOUSE BILL NO. 544  
 2 INTRODUCED BY E. BUTTREY, C. NEUMANN, S. VANCE, S. FITZPATRICK, K. ZOLNIKOV, J. ETCHART,  
 3 B. BARKER, G. HERTZ  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH UTILIZATION REVIEW LAWS;  
 6 PROHIBITING RETROACTIVE DENIALS UNDER CERTAIN CIRCUMSTANCES; PROVIDING BIOLOGIC  
 7 PRESCRIPTIONS FOR MINORS; APPLYING TO CERTAIN ENTITIES; AMENDING SECTION 2-18-704,  
 8 MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11

12 NEW SECTION. **Section 1. Retroactive denials prohibited.** When prior approval for a covered  
 13 service is required and obtained by or on behalf of a covered person and the covered person undergoes the  
 14 covered service, the approval is final and the health insurance issuer may not rescind approval after the  
 15 covered service has been provided. This section does not apply to cases of fraud, misrepresentation,  
 16 nonpayment of premium, exhaustion of benefits, if the covered person for whom the prior approval was granted  
 17 is not covered when the service was provided, or if the covered service provided was not the same covered  
 18 service that received prior approval, unless it was necessary and incidental.  
 19

20 NEW SECTION. **Section 2. Biologic prescriptions for minors.** (1) Biologic therapies may be  
 21 prescribed by a treating provider for individuals under 18 years of age as provided in this section. The biologic  
 22 therapies must meet the following requirements:

23 (a) the biologic therapies must be approved by the U.S. food and drug administration for use on  
 24 adults, but need not be approved for use on persons under 18 years of age; and

25 (b) the biologic therapies must be medically necessary, covered benefits and supported by medical  
 26 literature in at least two peer-reviewed journals demonstrating that the off-label use is both safe and effective  
 27 for use on persons in the following comparable phases of life age ranges:

28 (i) infancy, between birth and 2 years of age;

1 (ii) childhood, from 2 to 12 years of age; and

2 (iii) adolescence, from 12 to 18 years of age.

3 (2) Upon receipt of the request for prior authorization and medical records supporting the request  
4 and the literature described in section (1)(b), an entity covered under the provisions of this chapter performing a  
5 utilization review must approve or deny a request for prior authorization for biologic therapies under subsection  
6 (1) in the time frame set forth in this chapter.

7 (3) For the purposes of this section, the term "biologic therapies" means a treatment that uses  
8 substances made from living organisms to treat disease. These substances may be made in a laboratory or  
9 occur naturally in the body.

10

11 **Section 3.** Section 2-18-704, MCA, is amended to read:

12 **"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must  
13 contain provisions that permit:

14 (a) the member of a group who retires from active service under the appropriate retirement  
15 provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in  
16 Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in  
17 covered employment to remain a member of the group until the member becomes eligible for medicare under  
18 the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another  
19 group plan with substantially the same or greater benefits at an equivalent cost or unless the member is  
20 employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the  
21 same or greater benefits at an equivalent cost;

22 (b) the surviving spouse of a member to remain a member of the group as long as the spouse is  
23 eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is  
24 eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible  
25 for equivalent insurance coverage as provided in subsection (1)(a);

26 (c) the surviving children of a member (c) remain members of the group as long as they are eligible  
27 for retirement benefits accrued by the deceased member as provided by law unless they have equivalent  
28 coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of

1 a surviving parent or legal guardian.

2 (2) An insurance contract or plan issued under this part must contain the provisions of subsection  
3 (1) for remaining a member of the group and also must permit:

- 4 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);
- 5 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and
- 6 (c) continued membership in the group by anyone eligible under the provisions of this section,  
7 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

8 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain  
9 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health  
10 Insurance for the Aged Act if the legislator:

11 (i) terminates service in the legislature and is a vested member of a state retirement system  
12 provided by law; and

13 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's  
14 legislative term.

15 (b) A former legislator may not remain a member of the group plan under the provisions of  
16 subsection (3)(a) if the person:

- 17 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or
- 18 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan  
19 with substantially the same or greater benefits at an equivalent cost.

20 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and  
21 subsequently terminates membership may not rejoin the group plan unless the person again serves as a  
22 legislator.

23 (4) (a) A state insurance contract or plan must contain provisions that permit continued  
24 membership in the state's group plan by a member of the judges' retirement system who leaves judicial office  
25 but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The  
26 judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial  
27 service of the judge's choice to continue membership in the group plan.

28 (b) A former judge may not remain a member of the group plan under the provisions of this

1 subsection (4) if the person:

2 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

3 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan  
4 with substantially the same or greater benefits at an equivalent cost; or

5 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

6 (c) A judge who remains a member of the group under the provisions of this subsection (4) and  
7 subsequently terminates membership may not rejoin the group plan unless the person again serves in a  
8 position covered by the state's group plan.

9 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall  
10 pay the full premium for coverage and for that of the person's covered dependents.

11 (6) An insurance contract or plan issued under this part that provides for the dispensing of  
12 prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

13 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in  
14 Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions,  
15 including the same professional requirements that are met by the mail service pharmacy for a drug, without  
16 financial penalty to the member; and

17 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under  
18 Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

19 (7) An insurance contract or plan issued under this part must include coverage for:

20 (a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

21 (b) therapies for Down syndrome, as provided in 33-22-139;

22 (c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

23 (d) fertility preservation services as required under 33-22-2103;

24 (e) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter  
25 22, part 7;

26 (f) telehealth services, as provided for in 33-22-138; and

27 (g) refills of prescription eyedrops as provided in 33-22-154.

28 (8) (a) An insurance contract or plan issued under this part that provides coverage for an individual

1 in a member's family must provide coverage for well-child care for children from the moment of birth through 7  
2 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in  
3 force in the contract or plan.

4 (b) Coverage for well-child care under subsection (8)(a) must include:

5 (i) a history, physical examination, developmental assessment, anticipatory guidance, and  
6 laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis,  
7 and treatment services program provided for in 53-6-101; and

8 (ii) routine immunizations according to the schedule for immunization recommended by the  
9 advisory committee on immunization practices of the U.S. department of health and human services.

10 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services  
11 provided at each visit as provided for in this subsection (8).

12 (d) For purposes of this subsection (8):

13 (i) "developmental assessment" and "anticipatory guidance" mean the services described in the  
14 Guidelines for Health Supervision II, published by the American academy of pediatrics; and

15 (ii) "well-child care" means the services described in subsection (8)(b) and delivered by a  
16 physician or a health care professional supervised by a physician.

17 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a  
18 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in  
19 the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans  
20 issued under this part, the premium charged for the additional coverage of a dependent, as defined in the  
21 insurance contract or plan, may be required to be paid by the insured and not by the employer.

22 (10) Prior to issuance of an insurance contract or plan under this part, written informational  
23 materials describing the contract's or plan's cancer screening coverages must be provided to a prospective  
24 group or plan member.

25 (11) The state employee group benefit plans and the Montana university system group benefits  
26 plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending  
27 physician and, in the case of a health maintenance organization, the primary care physician, in consultation  
28 with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection

1 for the treatment of breast cancer.

2 (12) (a) (i) The state employee group benefit plans and the Montana university system group  
3 benefits plans must provide coverage for medically necessary and prescribed outpatient self-management  
4 training and education for the treatment of diabetes. Any education must be provided by a licensed health care  
5 professional with expertise in diabetes. At a minimum, the benefit must consist of:

6 (A) 20 visits of training and education in diabetes self-management provided in either an individual  
7 or group setting if the person has not received the training and education previously; and

8 (B) 12 visits of followup diabetes self-management training and education services in subsequent  
9 years for an insured who has previously received and exhausted the initial 20 visits of education.

10 (ii) For the purposes of this subsection (12)(a), the term "visit" refers to a period of 30 minutes.

11 (b) The state employee group benefit plans and the Montana university system group benefits  
12 plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes,  
13 injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips,  
14 visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps,  
15 one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United  
16 States food and drug administration, and glucagon emergency kits.

17 (c) Nothing in subsection (12)(a) or (12)(b) prohibits the state or the Montana university group  
18 benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which  
19 case subsection (12)(a) or (12)(b), as appropriate, does not apply.

20 (d) Annual copayment and deductible provisions are subject to the same terms and conditions  
21 applicable to all other covered benefits within a given policy.

22 (e) This subsection (12) does not apply to disability income, hospital indemnity, medicare  
23 supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the  
24 Montana university system as benefits to employees, retirees, and their dependents.

25 (13) (a) Except as provided in subsection (16), the state employee group benefit plans and the  
26 Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace  
27 officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a  
28 volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace

1 officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment.  
2 Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or  
3 dependents. Renewals of coverage under this section must provide for the same level of benefits as is  
4 available to other members of the group. Premiums charged to a spouse or dependent under this section must  
5 be the same as premiums charged to other similarly situated members of the group. Dependent special  
6 enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection  
7 (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

8 (b) The state employee group benefit plans and the Montana university system group benefits  
9 plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or  
10 dependent only if:

11 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the  
12 terms of the state employee group benefit plans and the Montana university system group benefits plans or if  
13 the plans have not received timely premium payments;

14 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made  
15 an intentional misrepresentation of a material fact under the terms of the coverage; or

16 (iii) the state employee group benefit plans and the Montana university system group benefits  
17 plans are ceasing to offer coverage in accordance with applicable state law.

18 (14) The state employee group benefit plans and the Montana university system group benefits  
19 plans must comply with the provisions of 33-22-153 and [sections 1 and 2].

20 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the  
21 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter  
22 22, part 7.

23 (16) The employing state agency of a law enforcement officer as defined in 2-15-2040 who is  
24 covered under the state employee group benefit plan shall:

25 (a) if the officer is catastrophically injured in the line of duty as defined in 2-15-2040, enroll the  
26 officer and the officer's covered spouse or dependent children in COBRA continuation coverage when that  
27 officer is terminated from employment as a result of the catastrophic injury. The officer and the officer's spouse  
28 or dependent children may opt out of COBRA continuation coverage within 60 days of enrollment.

1           (b)       enroll the officer's covered spouse or dependent children in COBRA continuation coverage if  
 2 the officer dies in the line of duty as defined in 2-15-2040. The officer's spouse or dependent children may opt  
 3 out of COBRA coverage within 60 days of the date of enrollment.

4           (c)       pay the COBRA premium for 4 months of COBRA continuation coverage for the officer and the  
 5 officer's covered spouse or dependent children enrolled in COBRA continuation coverage pursuant to  
 6 subsections (16)(a) or (16)(b), after which time the officer and the officer's spouse or dependent children shall  
 7 pay the COBRA premium. (See compiler's comments for contingent termination of certain text.)"

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9           NEW SECTION. Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified  
 10 as an integral part of Title 33, chapter 32, and the provisions of Title 33, chapter 32, apply to [sections 1 and 2].

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12           NEW SECTION. Section 5. Effective date. [This act] is effective January 1, 2026.

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14           NEW SECTION. Section 6. Applicability. [This act] applies to health insurance policies issued or  
 15 renewed on or after [the effective date of this act].

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