1 SENATE BILL NO. 422
2 INTRODUCED BY E. BOLDMAN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING REQUIREMENTS FOR HEALTH INSURANCE
5 COVERAGE RELATING TO ADVANCED METASTATIC CANCER; PROHIBITING INSURERS FROM
6 REQUIRING CERTAIN ACTS FROM THE INSURED RELATED TO PRESCRIPTION DRUGS AND
7 METASTATIC CANCER; AND AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10
11 NEW SECTION. **Section 1. Coverage for advanced metastatic cancer and associated**
12 **conditions.** (1) Insurers who sell health insurance coverage available through the group market or individual
13 market in this state and who provide coverage for advanced metastatic cancer and associated conditions may
14 not, before the health insurance provides coverage of a prescription drug approved by the United States food
15 and drug administration, require that the insured:
16 (a) fail to successfully respond to a different drug; or
17 (b) prove a history of failure of a different drug.
18 (2) This section applies only to a drug whose use is:
19 (a) consistent with best practices for the treatment of advanced metastatic cancer or an associated
20 condition;
21 (b) supported by peer-reviewed, evidence-based literature; and
22 (c) approved by the United States Food and Drug Administration.
23 (3) For the purposes of this section, the following definitions apply:
24 (a) "Advanced metastatic cancer" means cancer that has spread from the primary or original site of
25 the cancer to nearby tissues, lymph nodes, or other areas of the body.
26 (b) "Associated condition" means the symptoms or side effects that are associated with advanced
27 metastatic cancer or the cancer's treatment and which, in the judgment of the health care practitioner, would
28 further jeopardize the health of a patient if left untreated.

1

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

3 "**2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must
4 contain provisions that permit:

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

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

17 (c) the surviving children of a member to remain members of the group as long as they are eligible
18 for retirement benefits accrued by the deceased member as provided by law unless they have equivalent
19 coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of
20 a surviving parent or legal guardian.

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

23 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

24 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

25 (c) continued membership in the group by anyone eligible under the provisions of this section,
26 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

27 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain
28 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health

1 Insurance for the Aged Act if the legislator:
2 (i) terminates service in the legislature and is a vested member of a state retirement system
3 provided by law; and
4 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
5 legislative term.
6 (b) A former legislator may not remain a member of the group plan under the provisions of
7 subsection (3)(a) if the person:
8 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or
9 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
10 with substantially the same or greater benefits at an equivalent cost.
11 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
12 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
13 legislator.
14 (4) (a) A state insurance contract or plan must contain provisions that permit continued
15 membership in the state's group plan by a member of the judges' retirement system who leaves judicial office
16 but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The
17 judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial
18 service of the judge's choice to continue membership in the group plan.
19 (b) A former judge may not remain a member of the group plan under the provisions of this
20 subsection (4) if the person:
21 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;
22 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
23 with substantially the same or greater benefits at an equivalent cost; or
24 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.
25 (c) A judge who remains a member of the group under the provisions of this subsection (4) and
26 subsequently terminates membership may not rejoin the group plan unless the person again serves in a
27 position covered by the state's group plan.
28 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall

1 pay the full premium for coverage and for that of the person's covered dependents.

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

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

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

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

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

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

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

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

15 (e) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter
16 22, part 7;

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

18 (g) refills of prescription eyedrops as provided in 33-22-154; and

19 (h) if applicable, treatment for metastatic cancer under [section 1].

20 (8) (a) An insurance contract or plan issued under this part that provides coverage for an individual
21 in a member's family must provide coverage for well-child care for children from the moment of birth through 7
22 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in
23 force in the contract or plan.

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

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

28 (ii) routine immunizations according to the schedule for immunization recommended by the

1 advisory committee on immunization practices of the U.S. department of health and human services.
2 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services
3 provided at each visit as provided for in this subsection (8).
4 (d) For purposes of this subsection (8):
5 (i) "developmental assessment" and "anticipatory guidance" mean the services described in the
6 Guidelines for Health Supervision II, published by the American academy of pediatrics; and
7 (ii) "well-child care" means the services described in subsection (8)(b) and delivered by a
8 physician or a health care professional supervised by a physician.
9 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a
10 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in
11 the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans
12 issued under this part, the premium charged for the additional coverage of a dependent, as defined in the
13 insurance contract or plan, may be required to be paid by the insured and not by the employer.
14 (10) Prior to issuance of an insurance contract or plan under this part, written informational
15 materials describing the contract's or plan's cancer screening coverages must be provided to a prospective
16 group or plan member.
17 (11) The state employee group benefit plans and the Montana university system group benefits
18 plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending
19 physician and, in the case of a health maintenance organization, the primary care physician, in consultation
20 with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection
21 for the treatment of breast cancer.
22 (12) (a) (i) The state employee group benefit plans and the Montana university system group
23 benefits plans must provide coverage for medically necessary and prescribed outpatient self-management
24 training and education for the treatment of diabetes. Any education must be provided by a licensed health care
25 professional with expertise in diabetes. At a minimum, the benefit must consist of:
26 (A) 20 visits of training and education in diabetes self-management provided in either an individual
27 or group setting if the person has not received the training and education previously; and
28 (B) 12 visits of followup diabetes self-management training and education services in subsequent

1 years for an insured who has previously received and exhausted the initial 20 visits of education.
2 (ii) For the purposes of this subsection (12)(a), the term "visit" refers to a period of 30 minutes.
3 (b) The state employee group benefit plans and the Montana university system group benefits
4 plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes,
5 injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips,
6 visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps,
7 one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United
8 States food and drug administration, and glucagon emergency kits.
9 (c) Nothing in subsection (12)(a) or (12)(b) prohibits the state or the Montana university group
10 benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which
11 case subsection (12)(a) or (12)(b), as appropriate, does not apply.
12 (d) Annual copayment and deductible provisions are subject to the same terms and conditions
13 applicable to all other covered benefits within a given policy.
14 (e) This subsection (12) does not apply to disability income, hospital indemnity, medicare
15 supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the
16 Montana university system as benefits to employees, retirees, and their dependents.
17 (13) (a) Except as provided in subsection (16), the state employee group benefit plans and the
18 Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace
19 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
20 volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace
21 officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment.
22 Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or
23 dependents. Renewals of coverage under this section must provide for the same level of benefits as is
24 available to other members of the group. Premiums charged to a spouse or dependent under this section must
25 be the same as premiums charged to other similarly situated members of the group. Dependent special
26 enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection
27 (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.
28 (b) The state employee group benefit plans and the Montana university system group benefits

1 plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or
2 dependent only if:
3 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the
4 terms of the state employee group benefit plans and the Montana university system group benefits plans or if
5 the plans have not received timely premium payments;
6 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made
7 an intentional misrepresentation of a material fact under the terms of the coverage; or
8 (iii) the state employee group benefit plans and the Montana university system group benefits
9 plans are ceasing to offer coverage in accordance with applicable state law.
10 (14) The state employee group benefit plans and the Montana university system group benefits
11 plans must comply with the provisions of 33-22-153.
12 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the
13 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter
14 22, part 7.
15 (16) The employing state agency of a law enforcement officer as defined in 2-15-2040 who is
16 covered under the state employee group benefit plan shall:
17 (a) if the officer is catastrophically injured in the line of duty as defined in 2-15-2040, enroll the
18 officer and the officer's covered spouse or dependent children in COBRA continuation coverage when that
19 officer is terminated from employment as a result of the catastrophic injury. The officer and the officer's spouse
20 or dependent children may opt out of COBRA continuation coverage within 60 days of enrollment.
21 (b) enroll the officer's covered spouse or dependent children in COBRA continuation coverage if
22 the officer dies in the line of duty as defined in 2-15-2040. The officer's spouse or dependent children may opt
23 out of COBRA coverage within 60 days of the date of enrollment.
24 (c) pay the COBRA premium for 4 months of COBRA continuation coverage for the officer and the
25 officer's covered spouse or dependent children enrolled in COBRA continuation coverage pursuant to
26 subsections (16)(a) or (16)(b), after which time the officer and the officer's spouse or dependent children shall
27 pay the COBRA premium. (See compiler's comments for contingent termination of certain text.)"
28

1 **Section 3.** Section 33-31-111, MCA, is amended to read:
2 "**33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
3 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance
4 organization authorized to transact business under this chapter. This provision does not apply to an insurer or
5 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws
6 of this state except with respect to its health maintenance organization activities authorized and regulated
7 pursuant to this chapter.
8 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority
9 or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.
10 (3) A health maintenance organization authorized under this chapter is not practicing medicine and
11 is exempt from Title 37, chapter 3, relating to the practice of medicine.
12 (4) This chapter does not exempt a health maintenance organization from the applicable certificate
13 of need requirements under Title 50, chapter 5, parts 1 and 3.
14 (5) This section does not exempt a health maintenance organization from the prohibition of
15 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through
16 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and
17 33-3-701 through 33-3-704.
18 (6) This section does not exempt a health maintenance organization from:
19 (a) prohibitions against interference with certain communications as provided under Title 33,
20 chapter 1, part 8;
21 (b) the provisions of Title 33, chapter 22, parts 7 and 19;
22 (c) the requirements of 33-22-134 and 33-22-135;
23 (d) network adequacy and quality assurance requirements provided under chapter 36; or
24 (e) the requirements of Title 33, chapter 18, part 9.
25 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:
26 Title 33, chapter 1, parts 6, 12, and 13; 33-2-1114; 33-2-1211 and 33-2-1212; Title 33, chapter 2, parts 13, 19,
27 23, and 24; 33-3-401; 33-3-422; 33-3-431; Title 33, chapter 3, part 6; Title 33, chapter 10; Title 33, chapter 12;
28 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-114; 33-22-128; 33-22-129; 33-22-131;

1 33-22-136 through 33-22-139; 33-22-141 and 33-22-142; [section 1]; 33-22-152 through 33-22-159; 33-22-180;
2 33-22-244~~; 33-22-246 and~~ through 33-22-247; 33-22-514 and 33-22-515; 33-22-521~~; 33-22-523 and~~ through
3 33-22-524; 33-22-526; 33-22-2103; and Title 33, chapter 32."
4
5 **Section 4.** Section 33-35-306, MCA, is amended to read:
6 "**33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-
7 funded multiple employer welfare arrangements are subject to the following provisions:
8 (a) 33-1-111;
9 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
10 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
11 (c) Title 33, chapter 1, part 7;
12 (d) Title 33, chapter 2, parts 23 and 24;
13 (e) 33-3-308;
14 (f) Title 33, chapter 7;
15 (g) Title 33, chapter 18, except 33-18-242;
16 (h) Title 33, chapter 19;
17 (i) 33-22-107, 33-22-114, 33-22-128, 33-22-129, 33-22-131, 33-22-134, 33-22-135, 33-22-138,
18 33-22-139, 33-22-141, 33-22-142, [section 1]; and 33-22-152 through 33-22-155;
19 (j) 33-22-316;
20 (k) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;
21 (l) Title 33, chapter 22, parts 7 and 21; and
22 (m) 33-22-707.
23 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
24 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
25 revoked."
26
27 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
28 integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

1 - END -