

HOUSE BILL NO. 609

INTRODUCED BY R. HAMILTON

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING HEALTH INSURANCE ISSUERS TO PAY THE ISSUER'S PORTION OF PRESCRIPTION DRUG COSTS AT THE TIME OF PURCHASE; PROVIDING EXCEPTIONS; AMENDING SECTIONS 33-1-102, 33-22-101, 33-22-602, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Health insurance issuer processing of prescription drug benefits. (1)**

Each group or individual disability policy, certificate of insurance, and membership contract that covers prescription drugs and that is delivered, issued for delivery, renewed, extended, or modified in this state must provide that after the applicable deductible is met:

(a) the health insurance issuer shall pay the issuer's share of prescription drug costs at the time a beneficiary purchases covered prescription drugs; and

(b) the beneficiary shall pay only the required copayment or other cost-sharing requirement for a covered prescription drug at the time of purchase.

(2) The outline of coverage provided by the health insurance issuer to a policyholder must clearly state that a beneficiary is required to pay only the required copayment or other cost-sharing requirement, including the applicable deductible, for prescription drugs at the time of purchase.

(3) This section applies to:

(a) the state employee group health insurance program, the university employee group insurance program, or any employee group insurance program of a city, town, county, school district, or other political subdivision of this state; and

(b) blanket policies issued pursuant to Title 33, chapter 6.

(4) The section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, or long-term care policies.

**Section 2.** Section 33-1-102, MCA, is amended to read:



- 1           **"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance**  
2 **organizations -- governmental insurance programs -- service contracts.** (1) A person may not transact a  
3 business of insurance in Montana or a business relative to a subject resident, located, or to be performed in  
4 Montana without complying with the applicable provisions of this code.
- 5           (2) The provisions of this code do not apply with respect to:  
6           (a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;  
7           (b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and  
8           (c) fraternal benefit societies, except as stated in chapter 7.
- 9           (3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the  
10 corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.
- 11           (4) This code does not apply to health maintenance organizations or to managed care community  
12 networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are  
13 governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title  
14 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests  
15 of consumers by providing complaint, appeal, and grievance procedures relating to managed care community  
16 networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.
- 17           (5) This code does not apply to workers' compensation insurance programs provided for in Title 39,  
18 chapter 71, parts 21 and 23, and related sections.
- 19           (6) The department of public health and human services may limit the amount, scope, and duration of  
20 services for programs established under Title 53 that are provided under contract by entities subject to this title.  
21 The department of public health and human services may establish more restrictive eligibility requirements and  
22 fewer services than may be required by this title.
- 23           (7) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to the state  
24 employee group insurance program established in Title 2, chapter 18, part 8.
- 25           (8) This code does not apply to insurance funded through the state self-insurance reserve fund provided  
26 for in 2-9-202.
- 27           (9) (a) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to any  
28 arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political  
29 subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention,  
30 deductible, or self-insurance plan.

1 (b) This Except as otherwise provided in Title 33, chapter 22, this code does not apply to any  
 2 arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan,  
 3 or program of a single political subdivision of this state in which the political subdivision provides to its officers,  
 4 elected officials, or employees disability insurance or life insurance through a self-funded program.

5 (10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making  
 6 of, proposal to make, and administration of a service contract.

7 (b) A "service contract" means a contract or agreement for a separately stated consideration for a  
 8 specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair,  
 9 replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or  
 10 manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or  
 11 indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service.  
 12 A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from  
 13 power surges or accidental damage from handling. A service contract does not include motor club service as  
 14 defined in 61-12-301.

15 (11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance  
 16 services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for  
 17 the financial risk under the contract with the third party as provided in 7-34-103.

18 (b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or  
 19 town, the entity is subject to the provisions of this code."

20

21 **Section 3.** Section 33-22-101, MCA, is amended to read:

22 **"33-22-101. Exceptions to scope.** (1) Subject to subsection (2), parts 1 through 4 of this chapter,  
 23 except 33-22-107, 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-129, 33-22-130 through 33-22-136,  
 24 33-22-140, 33-22-141, 33-22-142, 33-22-243, and 33-22-304, and part 19 of this chapter do not apply to or affect:

25 (a) any policy of liability or workers' compensation insurance with or without supplementary expense  
 26 coverage;

27 (b) any group or blanket policy;

28 (c) life insurance, endowment, or annuity contracts or supplemental contracts that contain only those  
 29 provisions relating to disability insurance that:

30 (i) provide additional benefits in case of death or dismemberment or loss of sight by accident or

1 accidental means; or

2 (ii) operate to safeguard contracts against lapse or to give a special surrender value or special benefit  
3 or an annuity if the insured or annuitant becomes totally and permanently disabled as defined by the contract or  
4 supplemental contract;

5 (d) reinsurance.

6 (2) ~~Sections [Section 1],~~ 33-22-150 through 33-22-152, and 33-22-301 apply to group or blanket  
7 policies."

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9 **Section 4.** Section 33-22-602, MCA, is amended to read:

10 **"33-22-602. Required provisions of blanket policies.** ~~Any An~~ insurer authorized to write disability  
11 insurance in this state ~~shall have~~ has the power to issue blanket disability insurance. ~~No such A~~ blanket policy  
12 may not be issued or delivered in this state unless a copy of the form ~~thereof shall have been~~ for the policy is filed  
13 in accordance with 33-1-501. ~~Every such A~~ blanket policy ~~shall~~ must contain provisions ~~which that~~ in the opinion  
14 of the commissioner are at least as favorable to the policyholder and the individual insured as the following, ~~a~~  
15 ~~provision that~~ provisions:

16 (1) the policy and the application ~~shall~~ constitute the entire contract between the parties, ~~and that~~ all  
17 statements made by the policyholder ~~shall~~ are, in the absence of fraud, ~~be deemed considered~~ representations  
18 and not warranties, ~~and that no such statements shall~~ a statement may not be used in defense to a claim under  
19 the policy; unless it is contained in a written application;

20 (2) written notice of sickness or of injury must be given to the insurer within 20 days after the date when  
21 ~~such the~~ sickness or injury occurred. Failure to give notice within ~~such time shall~~ 20 days may not invalidate or  
22 reduce ~~any a~~ claim if it ~~shall be shown not to have been~~ the insured shows it was not reasonably possible to give  
23 ~~such the required~~ notice and that notice was given as soon as was reasonably possible.

24 (3) the insurer will furnish to the policyholder ~~such forms as are usually furnished by it~~ for filing proof of  
25 loss. If ~~such the~~ forms are not furnished ~~before the expiration of~~ within 15 days after the ~~giving of such notice~~  
26 insured provided notice of sickness or injury, the claimant ~~shall be deemed~~ is considered to have complied with  
27 the requirements of the policy as to proof of loss upon submitting, within the time ~~fixed~~ established in the policy  
28 for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which a claim  
29 is made.

30 (4) in the case of a claim for loss of time for disability, written proof of ~~such the~~ loss must be furnished

1 to the insurer within 30 days after the commencement of the period for which the insurer is liable and ~~that~~  
 2 subsequent written ~~proofs~~ proof of the continuance of ~~such the~~ disability must be furnished to the insurer at ~~such~~  
 3 intervals ~~as established by the insurer, may reasonably require and that in~~ In the case of a claim for any other  
 4 loss, written proof of ~~such the~~ loss must be furnished to the insurer within 90 days after the date of ~~such the~~ loss.  
 5 Failure to furnish ~~such~~ proof within ~~such time shall~~ 90 days may not invalidate or reduce ~~any a~~ claim if it ~~shall be~~  
 6 ~~shown not to have been~~ the insured shows it was not reasonably possible to furnish ~~such the required~~ proof and  
 7 that ~~such~~ proof was furnished as soon as was reasonably possible.

8 (5) except as provided in [section 1], all benefits payable under the policy other than benefits for loss of  
 9 time ~~will be~~ are payable immediately upon receipt of ~~due~~ written proof of ~~such the~~ loss, ~~and that, subject to~~  
 10 Subject to due proof of loss, all accrued benefits payable under the policy for loss of time ~~will~~ must be paid ~~not~~  
 11 ~~later than at the expiration of each period of at least every 30 days during the continuance of the period for which~~  
 12 the insurer is liable, ~~and that any~~ Any balance remaining unpaid at the termination of ~~such period will~~ the period  
 13 of liability must be paid immediately upon receipt of ~~such the~~ proof of loss.

14 (6) the insurer at its own expense ~~shall have~~ has the right and opportunity to examine the person of the  
 15 insured when and ~~so~~ as often as it ~~may reasonably require~~ reasonably required during the pendency of a claim  
 16 under the policy and also the right and opportunity to make an autopsy in case of death ~~where~~ when it is not  
 17 prohibited by law;

18 (7) ~~no an~~ action at law or in equity ~~shall~~ may not be brought to recover a loss under the policy ~~prior to~~  
 19 ~~the expiration of~~ sooner than 60 days after written proof of loss has been furnished in accordance with the  
 20 requirements of the policy and ~~that no such action shall be brought after the expiration of~~ no later than 3 years  
 21 after ~~the time~~ written proof of loss is required to be furnished."

22

23 **Section 5.** Section 33-31-111, MCA, is amended to read:

24 **"33-31-111. (Temporary) Statutory construction and relationship to other laws.** (1) Except as  
 25 otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health  
 26 maintenance organization authorized to transact business under this chapter. This provision does not apply to  
 27 an insurer or health service corporation licensed and regulated pursuant to the insurance or health service  
 28 corporation laws of this state except with respect to its health maintenance organization activities authorized and  
 29 regulated pursuant to this chapter.

30 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its

1 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

2 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is  
3 exempt from Title 37, chapter 3, relating to the practice of medicine.

4 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of  
5 need requirements under Title 50, chapter 5, parts 1 and 3.

6 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary  
7 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.  
8 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701  
9 through 33-3-704.

10 (6) This section does not exempt a health maintenance organization from:

11 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

12 (b) the provisions of Title 33, chapter 22, part 19;

13 (c) the requirements of 33-22-134 and 33-22-135;

14 (d) network adequacy and quality assurance requirements provided under chapter 36, except as  
15 provided in 33-22-262; or

16 (e) the requirements of Title 33, chapter 18, part 9.

17 (7) Except as provided in 33-22-262, the provisions of Title 33, chapter 1, parts 12 and 13, Title 33,  
18 chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title  
19 33, chapter 19, 33-22-107, [section 1], 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152,  
20 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply  
21 to health maintenance organizations. (Terminates June 30, 2009--sec. 14, Ch. 325, L. 2003.)

22 **33-31-111. (Effective July 1, 2009) Statutory construction and relationship to other laws.** (1) Except  
23 as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health  
24 maintenance organization authorized to transact business under this chapter. This provision does not apply to  
25 an insurer or health service corporation licensed and regulated pursuant to the insurance or health service  
26 corporation laws of this state except with respect to its health maintenance organization activities authorized and  
27 regulated pursuant to this chapter.

28 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its  
29 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

30 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is

1 exempt from Title 37, chapter 3, relating to the practice of medicine.

2 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of  
3 need requirements under Title 50, chapter 5, parts 1 and 3.

4 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary  
5 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.  
6 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701  
7 through 33-3-704.

8 (6) This section does not exempt a health maintenance organization from:

9 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

10 (b) the provisions of Title 33, chapter 22, part 19;

11 (c) the requirements of 33-22-134 and 33-22-135;

12 (d) network adequacy and quality assurance requirements provided under chapter 36; or

13 (e) the requirements of Title 33, chapter 18, part 9.

14 (7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212,  
15 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, section 1, 33-22-129,  
16 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-514,  
17 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations."

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19 **Section 6.** Section 33-35-306, MCA, is amended to read:

20 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter,  
21 self-funded multiple employer welfare arrangements are subject to the following provisions:

22 (a) 33-1-111;

23 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare  
24 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

25 (c) Title 33, chapter 1, part 7;

26 (d) 33-3-308;

27 (e) Title 33, chapter 18, except 33-18-242;

28 (f) Title 33, chapter 19;

29 (g) 33-22-107, section 1, 33-22-131, 33-22-134, 33-22-135, 33-22-141, 33-22-142, and 33-22-152; and

30 (h) 33-22-512, 33-22-525, and 33-22-526.

