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SENATE BILL NO. 223  
INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING REQUIREMENTS FOR INSURANCE  
COVERAGE OF CLINICIAN-ADMINISTERED DRUGS; PROVIDING A DEFINITION; AMENDING SECTIONS  
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. Coverage of clinician-administered drugs and services.** (1) Each

group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued  
for delivery, renewed, extended, or modified in this state may not:

- (a) refuse to authorize, approve, or pay a participating provider for providing covered clinician-administered drugs and related services to covered persons;
- (b) impose coverage or benefits limitations or require an insured to pay an additional fee, higher or second copayment, higher or second coinsurance, or other penalty when obtaining clinician-administered drugs from a pharmacy or a health care provider authorized under the laws of this state to administer clinician-administered drugs;
- (c) interfere with the insured's right to choose to obtain a clinician-administered drug from the insured's provider or pharmacy of choice, including inducement, steering, or offering financial or other incentives;
- (d) require clinician-administered drugs to be dispensed by a pharmacy selected by the health insurance issuer;
- (e) limit or exclude coverage for a clinician-administered drug when the drug is not dispensed by a pharmacy selected by the health insurance issuer if the drug would otherwise be covered;
- (f) reimburse at a lesser amount clinician-administered drugs dispensed by a pharmacy not selected by the health insurance issuer;
- (g) when all criteria for medical necessity are met, condition, deny, restrict, refuse to authorize or

1 approve, or reduce payment to a participating provider for providing covered clinician-administered drugs and  
2 related services to an insured because the insured obtains the drugs or services from a pharmacy that is not a  
3 participating provider in the health insurance issuer's network;

4 (h) require that an insured pay an additional fee, higher or second copayment, higher or second  
5 coinsurance, or any other form of price increase for a clinician-administered drug when not dispensed by a  
6 pharmacy selected by the health insurance issuer;

7 (i) require a specialty pharmacy to dispense a clinician-administered drug directly to a patient with  
8 the intention that the patient transport the drug to a health care provider for administration.

9 (2) A health insurance issuer may offer but may not require:

10 (a) the use of a home infusion pharmacy to dispense clinician-administered drugs to an insured in  
11 the insured's home; or

12 (b) the use of an infusion site external to the insured's provider office or clinic.

13 (3) For the purposes of this section, "clinician-administered drug" means an outpatient prescription  
14 drug other than a vaccine that:

15 (a) cannot reasonably be self-administered by the person to whom the drug is prescribed or by an  
16 individual assisting the person with self-administration; and

17 (b) is typically administered:

18 (i) by a health care provider authorized under the laws of this state to administer the drug,  
19 including when acting under a physician's delegation and supervision; and

20 (ii) in the office of a physician or advanced practice registered nurse, a hospital outpatient infusion  
21 center, or other clinical setting.

22

23 **Section 2.** Section 33-31-111, MCA, is amended to read:

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

1 pursuant to this chapter.

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

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

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

8 (5) This section does not exempt a health maintenance organization from the prohibition of  
9 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through  
10 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and  
11 33-3-701 through 33-3-704.

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

13 (a) prohibitions against interference with certain communications as provided under Title 33,  
14 chapter 1, part 8;

15 (b) the provisions of Title 33, chapter 22, parts 7 and 19;

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

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

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

19 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:

20 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,  
21 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;  
22 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-128; 33-22-129; 33-22-131; 33-22-136  
23 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 and 33-22-153; 33-22-156 through 33-22-159;  
24 [section 1]; 33-22-180; 33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523  
25 and 33-22-524; 33-22-526; and Title 33, chapter 32."

26

27 **Section 3.** Section 33-35-306, MCA, is amended to read:

28 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-

1 funded multiple employer welfare arrangements are subject to the following provisions:

2 (a) 33-1-111;

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

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

6 (d) Title 33, chapter 2, parts 23 and 24;

7 (e) 33-3-308;

8 (f) Title 33, chapter 7;

9 (g) Title 33, chapter 18, except 33-18-242;

10 (h) Title 33, chapter 19;

11 (i) 33-22-107, 33-22-128, 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141,  
12 33-22-142, 33-22-152, ~~and 33-22-153~~, and [section 1];

13 (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;

14 (k) Title 33, chapter 22, part 7; and

15 (l) 33-22-707.

16 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded  
17 multiple employer welfare arrangement that has been issued a certificate of authority that has not been  
18 revoked."

19

20 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an  
21 integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

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23 NEW SECTION. Section 5. Effective date. [This act] is effective January 1, 2024.

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