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HOUSE BILL NO. 783

2

INTRODUCED BY S. ROSENZWEIG, J. GILLETTE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COVERAGE OF CERTAIN TREATMENTS AND  
5 MEDICATIONS RELATING TO ~~DIABETES~~, OBESITY, OR POLYCYSTIC OVARY SYNDROME; PROVIDING  
6 THE TYPES OF TREATMENTS AND MEDICATIONS THAT MUST BE COVERED; ~~PROVIDING WHAT~~  
7 ~~MEDICAL NECESSITY INCLUDES~~; PROVIDING EXCLUSIONS; APPLYING TO ~~CERTAIN INSURED~~  
8 ~~GROUPS GROUP HEALTH INSURANCE FOR STATE EMPLOYEES; PROVIDING REPORTING~~  
9 ~~REQUIREMENTS~~; AND AMENDING ~~SECTIONS SECTION~~ 2-18-704, 33-31-111, AND 33-35-306, MCA."

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

12

13 NEW SECTION. Section 1. Coverage of certain treatments and medications relating to diabetes  
14 and obesity and polycystic ovary syndrome -- state group insurance. (1) (a) Each individual disability  
15 policy, certificate of insurance, and membership contract that is delivered, issued for delivery, renewed,  
16 extended, or modified in this state. An insurance contract or plan issued under this part must provide coverage  
17 for:

18 (i) glucagon-like peptide-1 receptor agonists for the treatment of class 3 or higher obesity,  
19 polycystic ovary syndrome, or other conditions these drugs are authorized to treat by the food and drug  
20 administration if it is determined to be medically necessary; and

21 (ii) polycystic ovary syndrome if it is determined to be medically necessary.

22 (b) For the purposes of subsection (1)(a), the term "medically necessary" includes but is not limited  
23 to a diagnosis of diabetes or class 3 obesity or polycystic ovary syndrome.

24 (2) Coverage under this section may be subject to deductibles, coinsurance, and copayment  
25 provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to  
26 other medical services covered under the plan may not be imposed on coverage of glucagon-like peptide-1  
27 receptor agonists. A health insurance issuer may use cost containment measures, which may include but are  
28 not limited to step therapy and prior authorization.

5 (4) By September 1 of each year, the department of administration shall report to the general  
6 government interim budget committee, health and human services interim budget committee, economic affairs  
7 interim committee, and health and human services interim committee in accordance with 5-11-210 on the  
8 utilization, cost, and cost savings as a result of this section for the purposes of assessing effectiveness and  
9 creating a budget estimate.

10

11 **Section 2.** 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 to 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 [section 1].

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                   **Section 3. Section 33-31-111, MCA, is amended to read:**

10                  **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise  
11     provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance  
12     organization authorized to transact business under this chapter. This provision does not apply to an insurer or  
13     health service corporation licensed and regulated pursuant to the insurance or health service corporation laws  
14     of this state except with respect to its health maintenance organization activities authorized and regulated  
15     pursuant to this chapter.

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

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

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

22                  (5) — This section does not exempt a health maintenance organization from the prohibition of  
23     pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through  
24     33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and  
25     33-3-701 through 33-3-704.

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

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

1       (b) the provisions of Title 33, chapter 22, parts 7 and 19;  
2       (c) the requirements of 33-22-134 and 33-22-135;  
3       (d) network adequacy and quality assurance requirements provided under chapter 36; or  
4       (e) the requirements of Title 33, chapter 18, part 9.  
5       (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:  
6       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,  
7       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;  
8       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;  
9       33-22-136 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 through 33-22-159; [section 1], 33-22-180;  
10      33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523 and 33-22-524; 33-22-  
11      526; 33-22-2103; and Title 33, chapter 32."

13 **Section 4.** Section 33-35-306, MCA, is amended to read:

14       **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-  
15       funded multiple employer welfare arrangements are subject to the following provisions:

16 (a) 33 1 111;

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

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

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

21 (e) 33-3-308;

22 (f) Title 33, chapter 7;

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

24 (h) Title 33, chapter 19;

25 (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,  
26 33-22-139, 33-22-141, 33-22-142, and 33-22-152 through 33-22-155, and [section 1];

27 (j) 33-22-316;

28 (k) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;

1                    (l) —— Title 33, chapter 22, parts 7 and 21; and

2                    (m) —— 33-22-707.

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

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8                    **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
9    integral part of Title 33, chapter 22, part 1 Title 2, chapter 18, part 7, and the provisions of Title 33, chapter 22,  
10   part 1, Title 2, chapter 18, part 7, apply to [section 1].

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