

Regular Session, 2009

HOUSE BILL NO. 406

BY REPRESENTATIVE PEARSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 22:1023(A)(8) and (9) and to enact R.S. 22:50 and 1023(A)(16)
3 and (17), (B)(4) through (10), and (C)(6) and 1050(H)(3) and Part LXVI of Chapter
4 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
5 40:1300.291 through 1300.293, relative to health insurance; to revise the definitions
6 of "genetic information" and "genetic test"; to add the definitions for "genetic
7 services" and "underwriting purposes"; to prohibit health insurers from requesting
8 or requiring genetic testing or genetic information under certain circumstances; to
9 prohibit health insurers from using genetic information for underwriting purposes
10 under certain circumstances; to provide for exceptions to the required coverage of
11 autism spectrum disorders in individuals less than seventeen years of age; to require
12 health insurance issuers to provide coverage and reimbursement to a unique provider
13 of health services for catastrophically ill children; to provide for definitions relative
14 to Medicaid reimbursement; to provide for Medicaid reimbursement for certain
15 health services providers; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 22:1023(A)(8) and (9) are hereby amended and reenacted and R.S.
18 22:50 and 1023(A)(16) and (17), (B)(4) through (10), and (C)(6) and 1050(H)(3) are hereby
19 enacted to read as follows:

20 §50. Reimbursement to a unique provider of health services

21 Health insurance issuers shall provide coverage and reimbursement to a
22 unique provider of health services for catastrophically ill children, as defined by R.S.

1 (6)(a) No insurer shall establish rules for eligibility, including continued
2 eligibility, of any individual or an individual's family member to enroll or continue
3 enrollment based on genetic information.

4 (b) Nothing in Subparagraph (a) of this Paragraph or in Items (4)(a)(i) and
5 (ii) of this Subsection shall be construed to preclude an insurer from establishing
6 rules for eligibility for an individual to enroll in individual health insurance coverage
7 based on the manifestation of a disease or disorder in that individual or in a family
8 member of such individual where such family member is covered under the policy
9 that covers such individual.

10 (7)(a) No insurer shall impose any preexisting condition exclusion on the
11 basis of genetic information of an individual, family member of an individual, or
12 group member.

13 (b) Nothing in Subparagraph (a) of this Paragraph or in Items (4)(a)(i) and
14 (ii) of this Subsection shall be construed to preclude an insurer offering coverage in
15 the individual market from imposing any preexisting condition exclusion for an
16 individual with respect to health insurance coverage on the basis of a manifestation
17 of a disease or disorder in that individual.

18 (8)(a) No insurer shall adjust premium or contribution amounts for an
19 individual or group health plan on the basis of genetic information concerning the
20 individual or a family member of the individual.

21 (b) Nothing in Subparagraph (a) of this Paragraph shall be construed to
22 preclude an insurer offering health insurance coverage in the individual market from
23 adjusting premium or contribution amounts for an individual on the basis of a
24 manifestation of a disease or disorder in that individual, or in a family member of
25 such individual where such family member is covered under the policy that covers
26 such individual. In such case, the manifestation of a disease or disorder in one
27 individual cannot also be used as genetic information about other individuals covered
28 under the policy issued to such individual and to further increase premium or
29 contribution amounts.

1 (c) Nothing in Subparagraph (a) of this Paragraph shall be construed to
2 preclude an insurer offering health insurance coverage in connection with a group
3 health plan from increasing the premium for an employer based upon the
4 manifestation of a disease or disorder of an individual who is enrolled in the plan.
5 In such case, the manifestation of a disease or disorder in one individual cannot also
6 be used as genetic information about other group members and to further increase
7 the premium for the employer.

8 (9)(a) Nothing in Subparagraph (5)(a) of this Subsection shall be construed
9 to preclude an insurer offering health insurance coverage in the individual or group
10 market from obtaining and using the results of a genetic test in making a
11 determination regarding payment, as such term is defined for the purposes of
12 applying the regulations promulgated by the secretary of the United States
13 Department of Health and Human Services under Part C of Title XI of the Social
14 Security Act and Section 264 of the Health Insurance Portability and Accountability
15 Act of 1996, consistent with Paragraphs (6) and (7) of this Subsection.

16 (b) For purposes of Subparagraph (a) of this Paragraph, an insurer offering
17 health insurance coverage in the individual or group market may request only the
18 minimum amount of information necessary to accomplish the intended purpose.

19 (10) Notwithstanding Subparagraph (5)(a) of this Subsection, an insurer
20 offering health insurance coverage in the individual or group market may request,
21 but not require, that an individual, family member of an individual, or a group
22 member undergo a genetic test if each of the following conditions is met:

23 (a) The request is made pursuant to research that complies with Part 46 of
24 Title 45, Code of Federal Regulations, or equivalent federal regulations, and any
25 applicable state or local law or regulations for the protection of human subjects in
26 research.

27 (b) The insurer clearly indicates to each individual, or in the case of a minor
28 child, to the legal guardian of such child, to whom the request is made both that:

29 (i) Compliance with the request is voluntary.

1 PART LXVI. HEALTH SERVICES FOR CATASTROPHICALLY2 ILL CHILDREN3 §1300.291. Definitions4 As used in this Part, the following terms shall have the following meanings:5 (1) "Unique provider of health services for catastrophically ill children"6 means an institution designated by the National Cancer Institute as a Comprehensive7 Cancer Center focused solely on pediatrics and that is a children's hospital dedicated8 to caring for children with catastrophic illness and conducting basic and advanced9 research into catastrophic childhood diseases such as cancers, acquired and inherited10 immunodeficiencies, and genetic disorders.11 (2) "Pediatric" means children and youth eligible and certified for Medicaid12 coverage, Louisiana Children's Health Insurance Program coverage, or coverage13 under a Louisiana Medicaid waiver program or Louisiana Medicaid managed care14 program.15 §1300.292. Reimbursement16 A. The secretary of the Department of Health and Hospitals shall provide17 coverage and reimbursement to a unique provider of health services for18 catastrophically ill children to the same extent that it would provide coverage for19 services for those children furnished within the boundaries of the state and shall20 insure that reimbursement to such institution shall be equal to the reimbursement rate21 of in-state children's hospitals for pediatric care. Such reimbursements shall be less22 than five hundred thousand dollars in total expenditures in any state fiscal year.23 B. Implementation of the provisions of this Part shall be subject to the24 appropriation of funds by the legislature for this purpose.25 §1300.293. Rules and regulations26 The Department of Health and Hospitals shall promulgate rules and27 regulations, in accordance with the Administrative Procedure Act, and take such28 other actions as are necessary to implement the provisions of this Part. The29 Department of Health and Hospitals shall submit to and obtain approval from the30 Centers for Medicare and Medicaid Services of a Medicaid State Plan Amendment

1 that contains a reimbursement methodology that restricts payments to the annual
2 maximum established in this Part prior to implementation of the provisions of this
3 Part.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____