

Regular Session, 2009
HOUSE BILL NO. 406

ACT No. 419

BY REPRESENTATIVE PEARSON

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

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§50. Reimbursement to a unique provider of health services

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

1 (ii) Is directly related to a manifested disease, disorder, or pathological
2 condition that could be reasonably detected by a health care professional with
3 appropriate training and expertise in the field of medicine involved.

4 * * *

5 (16) "Genetic services" means a genetic test, genetic counseling, including
6 obtaining, interpreting, or assessing genetic information, or genetic education.

7 (17) "Underwriting purposes" means rules for or determination of eligibility,
8 including enrollment and continued eligibility, for benefits under the plan or
9 coverage; the computation of premium or contribution amounts under the plan or
10 coverage; and other activities related to the creation, renewal, or replacement of a
11 contract or policy issued by an insurer.

12 B.

13 * * *

14 (4)(a) No insurer shall request, require, or purchase genetic information:

15 (i) Of an individual or family member of an individual for underwriting
16 purposes; or

17 (ii) With respect to any individual or family member of an individual prior
18 to such individual's enrollment under the plan or coverage in connection with such
19 enrollment.

20 (b) If an insurer offering health insurance coverage in the individual or group
21 market obtains genetic information incidental to the requesting, requiring, or
22 purchasing of other information concerning any individual, such request,
23 requirement, or purchase shall not be considered a violation of Item (a)(ii) of this
24 Paragraph if such request, requirement, or purchase is not in violation of Item (a)(i)
25 of this Paragraph.

26 (5)(a) No insurer shall request or require that an individual, a family member
27 of such individual, or a group member undergo a genetic test.

28 (b) Subparagraph (a) of this Paragraph shall not be construed to limit the
29 authority of a health care professional who is providing health care services to an
30 individual to request that such individual undergo a genetic test.

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.

PART LXVI. HEALTH SERVICES FOR CATASTROPHICALLY
ILL CHILDREN

§1300.291. Definitions

As used in this Part, the following terms shall have the following meanings:

(1) "Unique provider of health services for catastrophically ill children" means an institution designated by the National Cancer Institute as a Comprehensive Cancer Center focused solely on pediatrics and that is a children's hospital dedicated to caring for children with catastrophic illness and conducting basic and advanced research into catastrophic childhood diseases such as cancers, acquired and inherited immunodeficiencies, and genetic disorders.

(2) "Pediatric" means children and youth eligible and certified for Medicaid coverage, Louisiana Children's Health Insurance Program coverage, or coverage under a Louisiana Medicaid waiver program or Louisiana Medicaid managed care program.

§1300.292. Reimbursement

A. The secretary of the Department of Health and Hospitals shall provide coverage and reimbursement to a unique provider of health services for catastrophically ill children to the same extent that it would provide coverage for services for those children furnished within the boundaries of the state and shall insure that reimbursement to such institution shall be equal to the reimbursement rate of in-state children's hospitals for pediatric care. Such reimbursements shall be less than five hundred thousand dollars in total expenditures in any state fiscal year.

B. Implementation of the provisions of this Part shall be subject to the appropriation of funds by the legislature for this purpose.

§1300.293. Rules and regulations

The Department of Health and Hospitals shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, and take such other actions as are necessary to implement the provisions of this Part. The Department of Health and Hospitals shall submit to and obtain approval from the 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: _____