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 DIGEST

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SB 104 Engrossed

2023 Regular Session

Stine

Proposed law outlines legislative findings and requires any health coverage plan renewed, delivered, or issued for delivery in this state to include coverage for biomarker testing for the purpose of the diagnosis, treatment, appropriate management, or ongoing monitoring of an individual's disease or condition when the test provides clinical utility as demonstrated by medical and scientific evidence, including any one of the following:

- (1) Labeled indications for diagnostic tests approved or cleared by the U.S. Food and Drug Administration (FDA) or indicated diagnostic tests for a drug approved by the FDA.
- (2) Warnings and precautions listed on a FDA-approved drug label.
- (3) National Coverage Determinations of the Centers for Medicare and Medicaid Services or Local Coverage Determinations of Medicare Administrative Contractors.
- (4) Nationally recognized clinical practice guidelines.

Proposed law provides that coverage may be subject to annual deductibles, coinsurance, and copayment provisions as are consistent with those established under the health coverage plan.

Proposed law requires individuals and healthcare providers to have access to a clear, readily accessible, convenient process to request exceptions to a coverage policy or adverse determination of a health coverage plan. Further requires the process to be included on a health coverage plan's website or be clearly outlined in the notification of adverse determination.

Proposed law requires a health coverage plan to ensure that coverage in proposed law is provided in a manner that limits disruptions in care, including the need for multiple biopsies or biospecimen samples.

Proposed law defines "biomarker", "biomarker testing", "clinical utility", "health coverage plan", and "nationally recognized clinical practice guidelines".

Proposed law applies to any new policy, contract, program, or health coverage plan issued on and after the January first immediately following the effective date of proposed law. Further requires any policy, contract, or health coverage plan in effect prior to the effective date of proposed law to convert to conform to proposed law on before the renewal date, but no later than the first January first that is at least one year after the effective date of this Act.

Effective subject to appropriation of monies by the legislature for the implementation of proposed law.

(Adds R.S. 22:1028.5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Provides that tests are diagnostic tests.
2. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the engrossed bill:

1. Add that a biomarker test may identify any other medical condition.
2. Delete the definition of "consensus statements" and applicable references.
3. Define "clinical utility" and provide applicable references.
4. Add that proposed law does not require a health coverage plan to cover biomarker testing for screening purposes.
5. Add that the process for making exceptions to coverage may also be clearly outlined in a notification of adverse determination.
6. Add that proposed law applies to any new policy, contract, program, or health coverage plan issued on and after Jan. 1, 2024. Require any policy, contract, or health coverage plan in effect prior to Jan. 1, 2024, to convert to conform to proposed law on before the renewal date, but no later than Jan. 1, 2025.
7. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Make effectiveness of proposed law subject to appropriation of monies by the legislature for the implementation of proposed law.
2. Change application of proposed law relative to new policies and contracts from on and after January 1, 2024 to on and after the January first immediately following the effective date of proposed law.
3. Change date by which existing policies and contracts must conform to proposed law from no later than January 1, 2025 to no later than the first January first that is at least one year from the effective date of proposed law.
4. Make technical changes.