

STATE OF NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE



SUPERINTENDENT OF INSURANCE
Alice T. Kane

BULLETIN 2023-023

JULY 25, 2023

**TO: ALL HEALTH INSURANCE PLANS OFFERING MAJOR MEDICAL
COVERAGE IN NEW MEXICO**

**RE: STANDARDIZED LANGUAGE REGARDING MEDICAL NECESSITY AND
NONDISCRIMINATION STANDARDS FOR COVERAGE OF PROSTHETICS
OR ORTHOTICS DEVICES**

During the 2023 Legislative Session, Governor Michell Lujan Grisham signed House Bill 131 specifying medical necessity and nondiscrimination standards for the coverage of prosthetics or orthotics devices. The Office of Superintendent of Insurance (OSI) works to ensure that insurers supply accurate and understandable information that clearly explains health insurance rights and benefits to consumers. During review of the information provided in proposed Evidence of Coverage (EOC) documents, OSI discovered lack of clarity and accuracy pertaining to the coverage of prosthetic and custom orthotic devices that does not meet the standards specified in NMSA 1978, §59A-22-62, NMSA 1978, §59A-23-32, NMSA 1978, §59A-46-72, NMSA 1978, §59A-47-66 and NMSA 1978, §59A-16-21.4.

Each major medical policy or certificate that is delivered or issued for delivery in New Mexico must demonstrate compliance with NMSA 1978, §59A-22-62, NMSA 1978, §59A-23-32, NMSA 1978, §59A-46-72, NMSA 1978, §59A-47-66 and NMSA 1978, §59A-16-21.4. The Superintendent directs carriers to incorporate the following standardized language in EOC documents that will be in effect on or after January 1, 2024:

Main Office: 1120 Paseo de Peralta, Fourth Floor, Santa Fe, NM 87501
Satellite Office: 6200 Uptown Blvd NE, Suite 400, Albuquerque, NM 87110
Main Phone: (505) 827-4601 | Toll Free: (855) 4 - ASK - OSI

www.osi.state.nm.us

Medical Necessity and Nondiscrimination Standards for Coverage of Prosthetics and Orthotics

This plan provides coverage for initial and secondary prosthetic devices and custom orthotics in a non-discriminatory manner, and without restriction based on predetermined utilization limits, at the same level and cost-sharing as the coverage provided for medical and surgical benefits. Prosthetic and custom orthotic devices are considered habilitative and rehabilitative essential health benefits and are not subject to separate financial requirements or utilization restrictions.

Coverage includes:

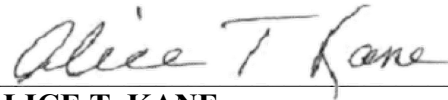
- Clinical care
- All supplies, materials, and devices determined by the physician to be medically necessary and most appropriate to maximize upper and lower limb function, maintain activities of daily living or essential job-related activities, and meet the medical needs for physical activities such but not limited to running, biking, swimming, strength training.
- All services, including design, fabrication, and repair
- Replacement, without regard to reasonable useful lifetime restrictions, including replacement necessary due to a change in the patient's condition or the condition of the device if replacement the device requires repairs costing more than 60 percent of replacement cost
- Access to prosthetic and custom orthotic devices from at least two distinct device providers in your network

Utilization management decisions related to coverage for prosthetic or custom orthotic devices will be applied in a non-discriminatory manner using the most recent version of evidence-based treatment and fit criteria as recognized by relevant clinical specialists or their organizations. Prosthetic and custom orthotic benefits will not be denied for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same daily functions and physical activity. However, coverage for prosthetic devices and custom orthotics will not be provided when

required solely for comfort or convenience.

Questions concerning this bulletin should be directed to Viara Ianakieva at viara.ianakieva@osi.nm.gov

ISSUED this 25th day of JULY, 2023.



ALICE T. KANE
Superintendent of Insurance