

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 11, 2024
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB24-124 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, strike lines 5 through 8 and substitute "**rules.**
2 (27) **Biomarker testing.** (a) ALL LARGE GROUP HEALTH BENEFIT PLANS
3 AND, TO THE EXTENT THAT SUCH COVERAGE IS NOT IN ADDITION TO THE
4 BENEFITS PROVIDED PURSUANT TO THE BENCHMARK PLAN, ALL
5 INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS SHALL PROVIDE
6 COVERAGE FOR BIOMARKER TESTING PURSUANT TO THIS SUBSECTION
7 (27).".

8 Page 2, line 12, strike "IS SUPPORTED" and substitute "PROVIDES CLINICAL
9 UTILITY AS DEMONSTRATED".

10 Page 3, lines 5 and 6, strike "GUIDELINES AND CONSENSUS STATEMENTS."
11 and substitute "GUIDELINES, CONSENSUS STATEMENTS, AND
12 PEER-REVIEWED STUDIES".

13 Page 3, after line 20 insert:
14 "(g) (I) THE DIVISION SHALL SUBMIT TO THE FEDERAL
15 DEPARTMENT OF HEALTH AND HUMAN SERVICES:

16 (A) A DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED IN
17 THIS SUBSECTION (27) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS AND
18 WOULD BE SUBJECT TO DEFRAYAL BY THE STATE PURSUANT TO 42 U.S.C.
19 SEC. 18031 (d)(3)(B); AND

20 (B) A REQUEST THAT THE FEDERAL DEPARTMENT OF HEALTH AND
21 HUMAN SERVICES CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY
22 DAYS AFTER RECEIPT OF THE DIVISION'S REQUEST AND SUBMISSION OF ITS
23 DETERMINATION.

24 (II) THIS SUBSECTION (27) APPLIES TO, AND THE DIVISION SHALL
25 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (27) FOR, LARGE

1 EMPLOYER HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE ON
2 OR AFTER JANUARY 1, 2025.

3 (III) THIS SUBSECTION (27) APPLIES TO, AND THE DIVISION SHALL
4 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (27) FOR,
5 INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS ISSUED OR
6 RENEWED IN THIS STATE TWELVE MONTHS AFTER THE EARLIER OF THE
7 FOLLOWING:

8 (A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE
10 SPECIFIED IN THIS SUBSECTION (27) DOES NOT CONSTITUTE AN ADDITIONAL
11 BENEFIT THAT REQUIRES DEFRAID BY THE STATE PURSUANT TO 42 U.S.C.
12 SEC. 18031 (d)(3)(B);

13 (B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES
14 HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE DOES NOT
15 REQUIRE STATE DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B);
16 OR

17 (C) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED
18 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR
19 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (27)
20 IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFRAID
21 PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL
22 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND
23 TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION
24 SHALL CONSIDER THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN
25 SERVICES' UNREASONABLE DELAY A PRECLUSION FROM REQUIRING
26 DEFRAID BY THE STATE."

27 Reletter succeeding paragraphs accordingly.

28 Page 4, after line 10 insert:

29 "(III) "CLINICAL UTILITY" MEANS THE TEST RESULT PROVIDES
30 INFORMATION THAT IS USED IN THE FORMULATION OF A TREATMENT OR
31 MONITORING STRATEGY THAT INFORMS A PATIENT'S OUTCOME AND
32 IMPACTS THE CLINICAL DECISION. THE MOST APPROPRIATE TEST MAY
33 INCLUDE BOTH INFORMATION THAT IS ACTIONABLE AND SOME
34 INFORMATION THAT CANNOT BE IMMEDIATELY USED IN THE FORMULATION
35 OF A CLINICAL DECISION."

36 Renumber succeeding subparagraphs accordingly.

37 Page 6, strike lines 1 through 20.

- 1 Page 6, line 21, after "(2)" insert "(a)", and strike "2025," and substitute
- 2 "2024,".

- 3 Page 6, strike lines 22 through 27 and substitute "PROGRAM MUST COVER
- 4 BIOMARKER TESTING PURSUANT TO THE ESTABLISHED PROCESSES FOR
- 5 DETERMINING COVERAGE OF SERVICES BASED ON CLINICAL UTILITY.".

- 6 Page 7, strike lines 1 through 11.

- 7 Page 7, line 16, strike "RECIPIENTS" and substitute "MEMBERS".

- 8 Page 7, line 19, strike "(4)" and substitute "(3)".

- 9 Page 7, line 20, strike "RECIPIENT." and substitute "MEMBER.".

- 10 Page 7, line 21, strike "(5)" and substitute "(4)".

- 11 Page 7, line 22, strike "RECIPIENT" and substitute "MEMBER".

- 12 Page 7, line 24, strike "RECIPIENTS" and substitute "MEMBERS".

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