

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 817

FISCAL
NOTE

BY SENATORS CLINE AND SMITH

[Introduced February 17, 2020; referred
to the Committee on Banking and Insurance; and then
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §33-15C-2; and to amend said code by adding thereto a new section,
3 designated §33-51-11, all relating to reducing the cost of prescription drugs; providing
4 consumers with an insulin cost cap for a 30-day supply; and requiring certain
5 compensation received from a pharmaceutical manufacturer, developer, or labeler to be
6 used for benefit of covered persons.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15C. DIABETES INSURANCE.

§33-15C-2. Insulin cost management.

1 (a) Findings. – (1) It is estimated that over 240,000 West Virginian’s are diagnosed and
2 living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

3 (2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily
4 doses of insulin to survive;

5 (3) The annual medical cost related to diabetes in West Virginia is estimated at \$2.5 billion
6 annually;

7 (4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times
8 higher than persons without diabetes;

9 (5) The cost of insulin has increased astronomically, especially the cost of insurance co-
10 payments, which can exceed \$600 per month. Similar increases in the cost of diabetic equipment
11 and supplies, and insurance premiums has resulted in out-of-pocket costs for many West
12 Virginian diabetics in excess of \$1,000 per month;

13 (6) National reports indicate as many as one in four type 1 diabetics underuse, or ration,
14 insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic
15 comas, amputation, kidney damage, and even death; and

16 (7) It is important to enact policies to reduce the costs for West Virginians with diabetes to
17 obtain lifesaving and life-sustaining insulin.

18 (b) Insulin cost cap. – (1) Any plan issued or renewed after January 1, 2021, including, but
 19 not limited to, those governed by §5-16-1 et seq., §33-16-1 et seq., §33-24-1 et seq., and §33-
 20 25A-8 et seq. all of this code, that provides coverage for prescription insulin drugs shall cap the
 21 total amount that a covered person is required to pay for a covered prescription insulin drug at an
 22 amount not to exceed \$25 per 30-day supply of insulin, regardless of the amount or type of insulin
 23 needed to fill the covered person’s insulin prescriptions. As used in this section, “prescription
 24 insulin drug” means a prescription drug that contains insulin and is intended to treat diabetes.

25 (2) Nothing in this section prevents a carrier from reducing a covered person’s cost
 26 sharing.

27 (3) The commissioner may use any enforcement powers in this code to obtain a carrier’s
 28 compliance with this section.

29 (c) The commissioner may promulgate rules as necessary pursuant to §29A-3-1 et seq.
 30 of this code to implement and administer this section and align with federal requirements.

ARTICLE 51. PHARMACY AUDIT INTEGRITY ACT.

§33-51-11. Responsibility to use compensation for benefit of covered persons.

1 (a) All compensation remitted by or on behalf of a pharmaceutical manufacturer, developer
 2 or labeler, directly or indirectly, to a carrier, or to a pharmacy benefits manager under contract
 3 with a carrier, related to its prescription drug benefits must be:

4 (1) Remitted directly to the covered person at the point of sale to reduce the out of pocket
 5 cost to the covered person associated with a particular prescription drug; or

6 (2) Remitted to, and retained by, the carrier. Compensation remitted to the carrier must be
 7 applied by the carrier in its plan design and in future plan years to offset the premium for covered
 8 persons.

9 (b) Beginning January 1, 2021 and annually after that, a carrier shall file with the
 10 commissioner a report in the manner and form determined by the commissioner demonstrating
 11 how the carrier has complied with this section.

NOTE: The purpose of this bill is to attempt to reduce the cost of prescription drugs by requiring a pharmacy benefit manager to pass through to the consumer certain compensation and to cap costs for life-saving insulin to \$25 for a 30-day supply, regardless of the amount or type of insulin prescribed.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.