

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 238

BY SENATORS STOLLINGS, JEFFRIES, CAPUTO, LINDSAY,

BALDWIN, AND WOELFEL

[Introduced January 12, 2022; referred
to the Committee on Banking and Insurance; and then
to the Committee on Finance]

1 A BILL to amend and reenact §5-16-7g of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §33-59-1 of said code, all relating generally to required health
 3 insurance coverage for diabetics; providing cost sharing in prescription drugs used for
 4 diabetes; defining terms; requiring insurance coverage for prescription insulin drugs; and
 5 providing for coverage pursuant to the West Virginia Public Employees Insurance Act.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7g. Coverage for prescription insulin drugs.

1 (a) A policy, plan, or contract that is issued or renewed on or after July 1, ~~2020~~ 2022, shall
 2 provide coverage for prescription insulin drugs pursuant to this section.

3 (b) For the purposes of this subdivision,

4 (1) "Noninsulin drug" means a drug, including, but not limited to, a glucagon drug, glucose
 5 tablet or glucose gel, that does not contain insulin and is approved by the federal Food and Drug
 6 Administration to treat diabetes.

7 (2) "Prescription insulin drug" means a prescription drug that contains insulin and is used
 8 to treat diabetes, and includes at least one type of insulin in all of the following categories:

9 ~~(1)~~ (A) Rapid-acting;

10 ~~(2)~~ (B) Short-acting;

11 ~~(3)~~ (C) Intermediate-acting;

12 ~~(4)~~ (D) Long-acting;

13 ~~(5)~~ (E) Pre-mixed insulin products;

14 ~~(6)~~ (F) Pre-mixed insulin/GLP-1 RA products; and

15 ~~(7)~~ (G) Concentrated human regular insulin; and

16 (c) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed
17 ~~\$100~~ \$25 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type
18 of prescription insulin used to fill the covered person's prescription needs.

19 (d) Cost sharing for a 30-day supply of a covered prescription noninsulin drug shall not
20 exceed \$25 for a 30-day supply of a noninsulin drug, regardless of the quantity or type of
21 noninsulin drug to fill the covered person's prescription needs.

22 ~~(d)~~ (e) Nothing in this section prevents the agency from reducing a covered person's cost
23 sharing by an amount greater than the amount specified in this subsection.

24 ~~(e)~~ (f) No contract between the agency or its pharmacy benefits manager and a pharmacy
25 or its contracting agent shall contain a provision (i) authorizing the agency's pharmacy benefits
26 manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a
27 covered person to make a cost-sharing payment for a covered prescription insulin drug and a
28 noninsulin drug in an amount that exceeds the amount of the cost-sharing payment for the
29 covered prescription insulin drug and a noninsulin drug established by the agency as provided in
30 subsection (c) of this section.

31 ~~(f)~~ (g) The agency shall provide coverage for the following equipment and supplies for the
32 treatment or management of diabetes for both insulin-dependent and noninsulin-dependent
33 persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor
34 supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for
35 controlling blood sugar, and orthotics. Cost sharing shall not exceed \$100 for a 30-day supply.

36 ~~(g)~~ (h) The agency shall provide coverage for diabetes self-management education to
37 ensure that persons with diabetes are educated as to the proper self-management and treatment
38 of their diabetes, including information on proper diets. Coverage for self-management education

39 and education relating to diet shall be provided by a health care practitioner who has been
40 appropriately trained as provided in ~~§33-53-1(k)~~ §33-59-1(k) of this code.

41 (h) (i) The education may be provided by a health care practitioner as part of an office visit
42 for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a
43 patient regarding the proper use of covered equipment, supplies, and medications, or by a
44 certified diabetes educator or registered dietitian.

45 (i) (j) A pharmacy benefits manager, a health plan, or any other third party that reimburses
46 a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not
47 assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered
48 person's costs sharing is being impacted.

CHAPTER 33. INSURANCE.

ARTICLE 59. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-59-1. Cost sharing in prescription insulin drugs.

1 (a) Findings. –

2 (1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1
3 or type 2 diabetes and another 65,000 are undiagnosed;

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

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

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

10 (5) The cost of insulin has increased astronomically, especially the cost of insurance
11 copayments, which can exceed \$600 per month. Similar increases in the cost of diabetic
12 equipment and supplies, and insurance premiums have resulted in out-of-pocket costs for many

13 West Virginia diabetics in excess of \$1,000 per month;

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

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

19 (b) As used in this section:

20 (1) "Cost-sharing payment" means the total amount a covered person is required to pay
21 at the point of sale in order to receive a prescription drug that is covered under the covered
22 person's health plan.

23 (2) "Covered person" means a policyholder, subscriber, participant, or other individual
24 covered by a health plan.

25 (3) "Health plan" means any health benefit plan, as defined in §33-16-1a(h) of this code,
26 that provides coverage for a prescription insulin drug.

27 (4) "Noninsulin drug" means a drug, including, but not limited to, a glucagon drug, glucose
28 tablet or glucose gel, that does not contain insulin and is approved by the federal Food and Drug
29 Administration to treat diabetes.

30 ~~(4)~~ (5) "Pharmacy benefits manager" means an entity that engages in the administration
31 or management of prescription drug benefits provided by an insurer for the benefit of its covered
32 persons.

33 ~~(5)~~ (6) "Prescription insulin drug" means a prescription drug that contains insulin and is
34 used to treat diabetes.

35 (c) Each health plan shall cover at least one type of insulin in all the following categories:

36 (1) Rapid-acting;

37 (2) Short-acting;

38 (3) Intermediate-acting;

- 39 (4) Long-acting;
40 (5) Pre-mixed insulin products;
41 (6) Pre-mixed insulin/GLP-1 RA products; and
42 (7) Concentrated human regular insulin.

43 (d) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to
44 §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of
45 this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide
46 coverage for ~~prescription insulin drugs~~ pursuant to this section.

47 (e) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed
48 ~~\$100~~ \$25 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type
49 of prescription insulin drug used to fill the covered person's prescription needs.

50 (f) Cost sharing for a 30-day supply of a covered prescription noninsulin drug shall not
51 exceed \$25 for a 30-day supply of a noninsulin drug, regardless of the quantity or type of
52 noninsulin drug to fill the covered person's prescription needs.

53 ~~(f)~~ (g) Nothing in this section prevents an insurer from reducing a covered person's cost
54 sharing to an amount less than the amount specified in subsection (e) of this section.

55 ~~(g)~~ (h) No contract between an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-
56 24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code or its pharmacy benefits manager and
57 a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's
58 pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or
59 (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin
60 drug in an amount that exceeds the amount of the cost-sharing payment for the covered
61 prescription insulin drug established by the insurer pursuant to subsection (e) of this code.

62 ~~(h)~~ (i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-
63 1 *et seq.*, and §33-25A-1 of this code shall provide coverage for the following equipment and
64 supplies for the treatment and/or management of diabetes for both insulin-dependent and

65 noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose
 66 monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices,
 67 pharmacological agents for controlling blood sugar, and orthotics. Cost sharing shall not exceed
 68 \$100 for a 30-day supply.

69 ~~(j)~~ (i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1
 70 *et seq.*, and §33-25A-1 of this code shall include coverage for diabetes self-management
 71 education to ensure that persons with diabetes are educated as to the proper self-management
 72 and treatment of their diabetes, including information on proper diets.

73 ~~(j)~~ (k) All health care plans must offer an appeals process for persons who are not able to
 74 take one or more of the offered prescription insulin drugs and a noninsulin drug. ~~noted in~~
 75 ~~subsection (c) of this code.~~ The appeals process shall be provided to covered persons in writing
 76 and afford covered persons and their health care providers a meaningful opportunity to participate
 77 with covered persons health care providers.

78 ~~(k)~~ (l) Diabetes self-management education shall be provided by a health care practitioner
 79 who has been appropriately trained. The Secretary of the Department of Health and Human
 80 Resources shall promulgate legislative rules to implement training requirements and procedures
 81 necessary to fulfill provisions of this subsection. ~~Provided, That any rules promulgated by the~~
 82 ~~secretary shall be done after consultation with the Coalition for Diabetes Management, as~~
 83 ~~established in §16-5Z-1 *et seq.* of this code.~~

84 ~~(l)~~ (m) A pharmacy benefits manager, a health plan, or any other third party that
 85 reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and
 86 shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered
 87 person's costs sharing is being impacted.

NOTE: The purpose of this bill is to reduce drug costs for diabetics.

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