

WEST VIRGINIA LEGISLATURE
2022 SECOND EXTRAORDINARY SESSION

Introduced

Senate Bill 2010

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ROMANO, STOLLINGS, AND WOELFEL

[Introduced April 25, 2022]

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 to health care; reducing
 3 copayments; adding coverage for devices under specified insurance plans including the
 4 Public Employees Insurance Agency; and permitting testing equipment to be purchased
 5 without a prescription under specified insurance plans.

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~~ July 1,
 2 2023, shall provide coverage for prescription insulin drugs pursuant to this section.

3 (b) For the purposes of this subdivision, "device" means a blood glucose test strip,
 4 glucometer, continuous glucometer, lancet, lancing device, or insulin syringe use to cure,
 5 diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include an insulin
 6 pump.

7 (c) For the purposes of this subdivision, "insulin pump" means a portable device that injects
 8 insulin at programmed intervals in order to regulate blood sugar levels in people with diabetes.

9 ~~(b)~~ (d) For the purposes of this subdivision, "prescription insulin drug" means a prescription
 10 drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin
 11 in all of the following categories:

12 (1) Rapid-acting;

- 13 (2) Short-acting;
- 14 (3) Intermediate-acting;
- 15 (4) Long-acting;
- 16 (5) Pre-mixed insulin products;
- 17 (6) Pre-mixed insulin/GLP-1 RA products; and
- 18 (7) Concentrated human regular insulin.

19 ~~(e)~~ (e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug shall may
20 not exceed ~~\$100~~ \$35 for a 30-day supply of a covered prescription insulin, regardless of the
21 quantity or type of prescription insulin used to fill the covered person's prescription needs.

22 (2) Cost sharing for a device may not exceed \$100 for a 30-day supply.

23 (3) Cost sharing for an insulin pump may not exceed \$250, and is limited to one insulin
24 pump purchase every 2 years.

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

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

33 ~~(f)~~ (h) The agency shall provide coverage for the following equipment and supplies for the
34 treatment or management of diabetes for both insulin-dependent and noninsulin-dependent
35 persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose monitors, monitor
36 supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for
37 controlling blood sugar, and orthotics.

38 ~~(g)~~ (i) The agency shall provide coverage for diabetes self-management education to

39 ensure that persons with diabetes are educated as to the proper self-management and treatment
40 of their diabetes, including information on proper diets. Coverage for self-management education
41 and education relating to diet shall be provided by a health care practitioner who has been
42 appropriately trained as provided in ~~§33-53-1(k)~~ §33-59-1(k) of this code.

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

47 ~~(i)~~ (k) A pharmacy benefits manager, a health plan, or any other third party that reimburses
48 a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not
49 assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered
50 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) "Device" means a blood glucose test strip, glucometer, continuous glucometer, lancet,
26 lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or
27 low blood sugar, but does not include an insulin pump.

28 ~~(3)~~ (4) "Health plan" means any health benefit plan, as defined in §33-16-1a(h) of this
29 code, that provides coverage for a prescription insulin drug.

30 (5) "Insulin pump" means a portable device that injects insulin at programmed intervals in
31 order to regulate blood sugar levels in people with diabetes.

32 ~~(4)~~ (6) "Pharmacy benefits manager" means an entity that engages in the administration
33 or management of prescription drug benefits provided by an insurer for the benefit of its covered
34 persons.

35 ~~(5)~~ (7) "Prescription insulin drug" means a prescription drug that contains insulin and is
36 used to treat diabetes.

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

38 (1) Rapid-acting;

39 (2) Short-acting;

40 (3) Intermediate-acting;

41 (4) Long-acting;

42 (5) Pre-mixed insulin products;

43 (6) Pre-mixed insulin/GLP-1 RA products; and

44 (7) Concentrated human regular insulin.

45 (d) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to
46 §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
47 this code which issues or renews a health insurance policy on or after ~~July 1, 2020~~ January 1,
48 2023, shall provide coverage for ~~prescription insulin drugs~~ pursuant to this section.

49 (e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may
50 not exceed ~~\$100~~ \$35 for a 30-day supply of a covered prescription insulin, regardless of the
51 quantity or type of prescription insulin used to fill the covered person's prescription needs.

52 (2) Cost sharing for a device may not exceed \$100 for a 30-day supply.

53 (3) Cost sharing for an insulin pump may not exceed \$250, and is limited to one insulin
54 pump purchase every 2 years.

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

57 (g) No contract between an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-
58 1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code or its pharmacy benefits manager and a
59 pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy
60 benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring

61 a covered person to make a cost-sharing payment for a covered prescription insulin drug in an
62 amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin
63 drug established by the insurer pursuant to subsection (e) of this ~~code~~ section.

64 (h) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*
65 *seq.*, and §33-25A-1 of this code shall provide coverage for the following equipment and supplies
66 for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-
67 dependent persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose
68 monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices,
69 pharmacological agents for controlling blood sugar, and orthotics.

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

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

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

85 (l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a
86 pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and ~~shall~~ may not

87 assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered
88 person's costs sharing is being impacted.

89 (m) A prescription is not required to obtain a blood testing kit for ketones.

NOTE: The purpose of this bill is to reduce the copay cap on insulin and devices.

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