

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4543

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[Passed March 7, 2020; in effect from passage.]

1 AN ACT to repeal §33-15C-1 of the Code of West Virginia, 1931, as amended; to repeal §33-16-
2 16 of said code; to amend said code by adding thereto a new section, designated §5-16-
3 7g; and to amend said code by adding thereto a new article, designated §33-53-1, all
4 relating generally to required health insurance coverage for diabetics; providing cost
5 sharing in prescription insulin drugs; providing related findings; providing definitions;
6 requiring insurance coverage for prescription insulin drugs; establishing cost sharing for a
7 prescription insulin drug; establishing cost sharing for designated equipment and supplies
8 related to the treatment and management of diabetes; requiring insurance coverage for
9 diabetes education and medical visits; limiting some insurance coverage; providing for
10 coverage pursuant to the West Virginia Public Employees Insurance Act; and providing
11 that education related to diabetes may be provided by health care providers.

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, shall
2 provide coverage for prescription insulin drugs pursuant to this section.

3 (b) For the purposes of this subdivision, “prescription insulin drug” means a prescription
4 drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin
5 in all of the following categories:

6 (1) Rapid-acting;

- 7 (2) Short-acting;
- 8 (3) Intermediate-acting;
- 9 (4) Long-acting;
- 10 (5) Pre-mixed insulin products;
- 11 (6) Pre-mixed insulin/GLP-1 RA products; and
- 12 (7) Concentrated human regular insulin.

13 (c) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed
14 \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of
15 prescription insulin used to fill the covered person's prescription needs.

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

18 (e) No contract between the agency or its pharmacy benefits manager and a pharmacy or
19 its contracting agent shall contain a provision (i) authorizing the agency's pharmacy benefits
20 manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a
21 covered person to make a cost-sharing payment for a covered prescription insulin drug in an
22 amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin
23 drug established by the agency as provided in subsection (c) of this section.

24 (f) The agency shall provide coverage for the following equipment and supplies for the
25 treatment or management of diabetes for both insulin-dependent and noninsulin-dependent
26 persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor
27 supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for
28 controlling blood sugar, and orthotics.

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

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

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

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

CHAPTER 33. INSURANCE.

ARTICLE 15C. DIABETES INSURANCE.

§33-15C-1. Insurance for diabetics.

1 [Repealed.]

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-16. Insurance for diabetics.

1 [Repealed.]

ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-53-1. 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) "Pharmacy benefits manager" means an entity that engages in the administration or
28 management of prescription drug benefits provided by an insurer for the benefit of its covered
29 persons.

30 (5) "Prescription insulin drug" means a prescription drug that contains insulin and is used
31 to treat diabetes.

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

33 (1) Rapid-acting;

34 (2) Short-acting;

35 (3) Intermediate-acting;

36 (4) Long-acting;

37 (5) Pre-mixed insulin products;

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

39 (7) Concentrated human regular insulin.

40 (d) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to
41 §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
42 this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide
43 coverage for prescription insulin drugs pursuant to this section.

44 (e) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed
45 \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of
46 prescription insulin used to fill the covered person's prescription needs.

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

49 (g) No contract between an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-
50 1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code or its pharmacy benefits manager and a
51 pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy
52 benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring
53 a covered person to make a cost-sharing payment for a covered prescription insulin drug in an
54 amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin
55 drug established by the insurer pursuant to subsection (e) of this code.

56 (h) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*
57 *seq.*, and §33-25A-1 of this code shall provide coverage for the following equipment and supplies

58 for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-
59 dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors,
60 monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents
61 for controlling blood sugar, and orthotics.

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor