WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2708

BY DELEGATES ROHRBACH, FLEISCHAUER, GRIFFITH,
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DEAN AND WORRELL

[Introduced February 23, 2021; Referred to the
Committee on Health and Human Resources then
Finance]
A BILL to amend and reenact §5-16-7g of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-59-1 of said code, all relating generally to required health insurance coverage for diabetics; providing cost sharing in prescription drugs used to treat diabetes; defining terms; requiring insurance coverage for prescription insulin drugs; and 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.

(a) A policy, plan, or contract that is issued or renewed on or after July 1, 2020 (2021), shall provide coverage for prescription insulin drugs pursuant to this section.

(b) For the purposes of this subdivision,

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

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

(A) Rapid-acting;

(B) Short-acting;

(C) Intermediate-acting;

(D) Long-acting;
(5) (E) Pre-mixed insulin products;

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

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

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

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

(4) (e) Nothing in this section prevents the agency from reducing a covered person’s cost sharing by an amount greater than the amount specified in this subsection.

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

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

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

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

(i) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered 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.

(a) Findings. –

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

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

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

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

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed $600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums have resulted in out-of-pocket costs for many
West Virginia diabetics in excess of $1,000 per month;

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

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

(b) As used in this section:

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

(2) “Covered person” means a policyholder, subscriber, participant, or other individual covered by a health plan.

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

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

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

(5)(6) “Prescription insulin drug” means a prescription drug that contains insulin and is used to treat diabetes.

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

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;
(4) Long-acting;
(5) Pre-mixed insulin products;
(6) Pre-mixed insulin/GLP-1 RA products; and
(7) Concentrated human regular insulin.

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

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

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

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

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

(i) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and
noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose
monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharma
cological agents for controlling blood sugar, and orthotics. Cost sharing shall not exceed
$100 for a 30-day supply.

(i) (j) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et
seq., and §33-25A-1 of this code shall include coverage for diabetes self-management
treatment of their diabetes, including information on proper diets.

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

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

(i) (m) A pharmacy benefits manager, a health plan, or any other third party that
reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and
shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered
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.