

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 577

By Senators Maroney, Woelfel, Rucker, Deeds,
Grady, Hamilton, Queen, Clements, Oliverio,
Woodrum, Jeffries, Chapman, Barrett, Roberts, Hunt,
and Taylor

[Introduced February 07, 2023; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §33-59-1 of the Code of West Virginia, 1931, as amended, relating to
 2 diabetes; reducing copayments; adding coverage for devices; and permitting testing
 3 equipment to be purchased without a prescription.

Be it enacted by the Legislature of West Virginia:

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 or
 3 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 (4) "Cost-sharing payment" means the total amount a covered person is required to pay at

21 the point of sale in order to receive a prescription drug that is covered under the covered person's
22 health plan.

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

25 "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 low
27 blood sugar, but does not include insulin pumps;

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

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

33 (5) "Prescription insulin drug" means a prescription drug that contains insulin and is used to
34 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~~ January 1,
46 2023, shall provide coverage for prescription insulin drugs and equipment pursuant to this section.

47 (e) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may not
48 exceed ~~\$400~~ \$35 for a 30-day supply of a covered prescription insulin and \$100 for devices,
49 regardless of the quantity or type of prescription insulin used to fill the covered person's
50 prescription needs.

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

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

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

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

70 (j) All health care plans must offer an appeals process for persons who are not able to take
71 one or more of the offered prescription insulin drugs noted in subsection (c) of this ~~code~~ section.
72 The appeals process shall be provided to covered persons in writing and afford covered persons

73 and their health care providers a meaningful opportunity to participate with covered persons health
74 care providers.

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

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

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

NOTE: The purpose of this bill is to reduce the copay cap on insulin and devices and
permitting testing equipment to be purchased without a prescription.

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