

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 577

BY SENATORS MARONEY, WOELFEL, RUCKER, DEEDS,
GRADY, HAMILTON, QUEEN, CLEMENTS, OLIVERIO,
WOODRUM, JEFFRIES, CHAPMAN, BARRETT, ROBERTS,
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[Originating in the Committee on Health and Human
Resources; reported on February 17, 2023]

1 A BILL to amend and reenact §33-59-1 of the Code of West Virginia, 1931, as amended, relating
2 to 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
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 ~~(4)~~ "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 "Device" means a blood glucose test strip, glucometer, continuous glucose monitor
26 (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat
27 diabetes or low 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
34 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~~ 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 ~~\$100~~ \$35 in aggregate, including situations where the covered person is prescribed more
49 than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill
50 such covered person's prescription. Cost sharing for a 30-day supply of covered device(s) may
51 not exceed \$100 in aggregate, including situations where the covered person is prescribed more
52 than one device, per 30-day supply. Each cost-share maximum is covered regardless of the
53 person's deductible, copayment, coinsurance or any other cost-sharing requirement.

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

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

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

69 (i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*
70 *seq.*, and §33-25A-1 *et seq.* 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) 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 noted in subsection (c) of this ~~code~~
75 section. The appeals process shall be provided to covered persons in writing and afford covered
76 persons and their health care providers a meaningful opportunity to participate with covered
77 persons health care providers.

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

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