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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2662

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State of Washington

66th Legislature

2020 Regular Session

**By** House Appropriations (originally sponsored by Representatives Maycumber, Cody, DeBolt, Tharinger, Chopp, Harris, Macri, Thai, Chambers, Caldier, Duerr, Hudgins, Chapman, Steele, Gildon, Eslick, Robinson, Irwin, Lekanoff, Senn, Doglio, Gregerson, Peterson, Goodman, Leavitt, Frame, Pollet, Riccelli, Volz, Davis, and Kloba)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to reducing the total cost of insulin; amending  
2 RCW 70.14.060, 48.20.391, 48.21.143, 48.44.315, and 48.46.272; adding  
3 new sections to chapter 70.14 RCW; adding a new section to chapter  
4 48.43 RCW; adding a new section to chapter 41.05 RCW; creating a new  
5 section; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that:

8 (a) Insulin is a life-saving drug and is critical to the  
9 management of diabetes as it helps patients control their blood sugar  
10 levels;

11 (b) According to Yale researchers, one-quarter of patients with  
12 Type 1 or 2 diabetes have reported using less insulin than prescribed  
13 due to the high cost of insulin;

14 (c) The first insulin patent in the United States was awarded in  
15 1923 and the first synthetic insulin arrived on the market in 1978;  
16 and

17 (d) The price and utilization of insulin has steadily increased,  
18 making it one of the costliest prescription drugs in the state.  
19 According to the Washington all-payer claims database, the allowable  
20 costs before rebates for health carriers in the state have increased  
21 eighty-seven percent since 2014, and per member out-of-pocket costs

1 have increased an average of eighteen percent over the same time  
2 period.

3 (2) Therefore, the legislature intends to review, consider, and  
4 pursue several strategies with the goal of reducing the cost of  
5 insulin in Washington.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.14  
7 RCW to read as follows:

8 (1) The total cost of insulin work group is established. The work  
9 group membership must consist of the insurance commissioner or  
10 designee and the following members appointed by the governor:

11 (a) A representative from the prescription drug purchasing  
12 consortium described in RCW 70.14.060;

13 (b) A representative from the pharmacy quality assurance  
14 commission;

15 (c) A representative from an association representing independent  
16 pharmacies;

17 (d) A representative from an association representing chain  
18 pharmacies;

19 (e) A representative from each health carrier offering at least  
20 one health plan in a commercial market in the state;

21 (f) A representative from each health carrier offering at least  
22 one health plan to state or public school employees in the state;

23 (g) A representative from an association representing health  
24 carriers;

25 (h) A representative from the public employees' benefits board or  
26 the school employees' benefits board;

27 (i) A representative from the health care authority;

28 (j) A representative from a pharmacy benefit manager that  
29 contracts with state purchasers;

30 (k) A representative from a drug distributor or wholesaler that  
31 distributes or sells insulin in the state;

32 (l) A representative from a state agency that purchases health  
33 care services and drugs for a selected population; and

34 (m) A representative from the attorney general's office with  
35 expertise in prescription drug purchasing.

36 (2) The work group must review and design strategies to reduce  
37 the cost of and total expenditures on insulin in this state.  
38 Strategies the work group must consider include, but are not limited  
39 to, a state agency becoming a licensed drug wholesaler, a state

1 agency becoming a registered pharmacy benefit manager, and a state  
2 agency purchasing prescription drugs on behalf of the state directly  
3 from other states or in coordination with other states.

4 (3) Staff support for the work group shall be provided by the  
5 health care authority.

6 (4) By December 1, 2020, the work group must submit a preliminary  
7 report detailing strategies to reduce the cost of and total  
8 expenditures on insulin for patients, health carriers, payers, and  
9 the state. The work group must submit a final report by July 1, 2021,  
10 to the governor and the legislature. The final report must include  
11 any statutory changes necessary to implement the strategies.

12 (5) This section expires December 1, 2022.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.14  
14 RCW to read as follows:

15 (1) In order to implement strategies recommended by the total  
16 cost of insulin work group established in section 2 of this act, the  
17 health care authority may:

18 (a) Become or designate a state agency that shall become a drug  
19 wholesaler licensed under RCW 18.64.046;

20 (b) Become or designate a state agency that shall become a  
21 pharmacy benefit manager registered under RCW 19.340.030; or

22 (c) Purchase prescription drugs on behalf of the state directly  
23 from other states or in coordination with other states.

24 (2) In addition to the authorities granted in subsection (1) of  
25 this section, if the total cost of insulin work group established in  
26 section 2 of this act determines that all or a portion of the  
27 strategies may be implemented without statutory changes, the health  
28 care authority and the prescription drug purchasing consortium  
29 described in RCW 70.14.060 shall begin implementation without further  
30 legislative direction.

31 **Sec. 4.** RCW 70.14.060 and 2009 c 560 s 13 are each amended to  
32 read as follows:

33 (1) (a) The administrator of the state health care authority  
34 shall, directly or by contract, adopt policies necessary for  
35 establishment of a prescription drug purchasing consortium. The  
36 consortium's purchasing activities shall be based upon the evidence-  
37 based prescription drug program established under RCW 70.14.050.  
38 State purchased health care programs as defined in RCW 41.05.011

1 shall purchase prescription drugs through the consortium for those  
2 prescription drugs that are purchased directly by the state and those  
3 that are purchased through reimbursement of pharmacies, unless  
4 exempted under ~~((this section))~~ (b) of this subsection. The  
5 administrator shall not require any supplemental rebate offered to  
6 the ~~((department of social and health services))~~ health care  
7 authority by a pharmaceutical manufacturer for prescription drugs  
8 purchased for medical assistance program clients under chapter 74.09  
9 RCW be extended to any other state purchased health care program, or  
10 to any other individuals or entities participating in the consortium.  
11 The administrator shall explore joint purchasing opportunities with  
12 other states.

13 (b) State purchased health care programs are exempt from the  
14 requirements of this section if they can demonstrate to the  
15 administrator of the state health care authority that, as a result of  
16 the availability of federal programs or other purchasing  
17 arrangements, their other purchasing mechanisms will result in  
18 greater discounts and aggregate cost savings than would be realized  
19 through participation in the consortium.

20 (2) Participation in the purchasing consortium shall be offered  
21 as an option beginning January 1, 2006. Participation in the  
22 consortium is purely voluntary for units of local government, private  
23 entities, labor organizations, health carriers as provided in RCW  
24 48.43.005, state purchased health care services from or through  
25 health carriers as provided in RCW 48.43.005, and for individuals who  
26 lack or are underinsured for prescription drug coverage. The  
27 administrator may set reasonable fees, including enrollment fees, to  
28 cover administrative costs attributable to participation in the  
29 prescription drug consortium.

30 (3) ~~((This section does not apply to state purchased health care~~  
31 ~~services that are purchased from or through health carriers as~~  
32 ~~defined in RCW 48.43.005, or group model health maintenance~~  
33 ~~organizations that are accredited by the national committee for~~  
34 ~~quality assurance.~~

35 ~~(4))~~ The state health care authority is authorized to adopt  
36 rules implementing chapter 129, Laws of 2005.

37 ~~((5) State purchased health care programs are exempt from the~~  
38 ~~requirements of this section if they can demonstrate to the~~  
39 ~~administrator that, as a result of the availability of federal~~  
40 ~~programs or other purchasing arrangements, their other purchasing~~

1 ~~mechanisms will result in greater discounts and aggregate cost~~  
2 ~~savings than would be realized through participation in the~~  
3 ~~consortium.))~~

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43  
5 RCW to read as follows:

6 (1) Except as required in subsection (2) of this section, a  
7 health plan issued or renewed on or after January 1, 2021, that  
8 provides coverage for prescription insulin drugs for the treatment of  
9 diabetes must cap the total amount that an enrollee is required to  
10 pay for a covered insulin drug at an amount not to exceed one hundred  
11 dollars per thirty-day supply of the drug. Prescription insulin drugs  
12 must be covered without being subject to a deductible, and any cost  
13 sharing paid by an enrollee must be applied toward the enrollee's  
14 deductible obligation.

15 (2) If the federal internal revenue service removes insulin from  
16 the list of preventive care services which can be covered by a  
17 qualifying health plan for a health savings account before the  
18 deductible is satisfied, for a health plan that provides coverage for  
19 prescription insulin drugs for the treatment of diabetes and is  
20 offered as a qualifying health plan for a health savings account, the  
21 carrier must establish the plan's cost sharing for the coverage of  
22 prescription insulin for diabetes at the minimum level necessary to  
23 preserve the enrollee's ability to claim tax exempt contributions  
24 from his or her health savings account under internal revenue service  
25 laws and regulations. The office of the insurance commissioner must  
26 provide written notice of the change in internal revenue service  
27 guidance to affected parties, the chief clerk of the house of  
28 representatives, the secretary of the senate, the office of the code  
29 reviser, and others as deemed appropriate by the office.

30 (3) This section expires January 1, 2023.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05  
32 RCW to read as follows:

33 (1) Except as required in subsection (2) of this section, a  
34 health plan offered to public employees and their covered dependents  
35 under this chapter that is issued or renewed by the board on or after  
36 January 1, 2021, that provides coverage for prescription insulin  
37 drugs for the treatment of diabetes must cap the total amount that an  
38 enrollee is required to pay for a covered insulin drug at an amount

1 not to exceed one hundred dollars per thirty-day supply of the drug.  
2 Prescription insulin drugs must be covered without being subject to a  
3 deductible, and any cost sharing paid by an enrollee must be applied  
4 toward the enrollee's deductible obligation.

5 (2) If the federal internal revenue service removes insulin from  
6 the list of preventive care services which can be covered by a  
7 qualifying health plan for a health savings account before the  
8 deductible is satisfied, for a health plan that provides coverage for  
9 prescription insulin drugs for the treatment of diabetes and is  
10 offered as a qualifying health plan for a health savings account, the  
11 carrier must establish the plan's cost sharing for the coverage of  
12 prescription insulin for diabetes at the minimum level necessary to  
13 preserve the enrollee's ability to claim tax exempt contributions  
14 from his or her health savings account under internal revenue service  
15 laws and regulations. The office of the insurance commissioner must  
16 provide written notice of the change in internal revenue service  
17 guidance to affected parties, the chief clerk of the house of  
18 representatives, the secretary of the senate, the office of the code  
19 reviser, and others as deemed appropriate by the office.

20 (3) The authority must monitor the wholesale acquisition cost of  
21 all insulin products sold in the state.

22 (4) This section expires January 1, 2023.

23 **Sec. 7.** RCW 48.20.391 and 1997 c 276 s 2 are each amended to  
24 read as follows:

25 The legislature finds that diabetes imposes a significant health  
26 risk and tremendous financial burden on the citizens and government  
27 of the state of Washington, and that access to the medically accepted  
28 standards of care for diabetes, its treatment and supplies, and self-  
29 management training and education is crucial to prevent or delay the  
30 short and long-term complications of diabetes and its attendant  
31 costs.

32 (1) The definitions in this subsection apply throughout this  
33 section unless the context clearly requires otherwise.

34 (a) "Person with diabetes" means a person diagnosed by a health  
35 care provider as having insulin using diabetes, noninsulin using  
36 diabetes, or elevated blood glucose levels induced by pregnancy; and

37 (b) "Health care provider" means a health care provider as  
38 defined in RCW 48.43.005.

1 (2) All disability insurance contracts providing health care  
2 services, delivered or issued for delivery in this state and issued  
3 or renewed after January 1, 1998, shall provide benefits for at least  
4 the following services and supplies for persons with diabetes:

5 (a) For disability insurance contracts that include pharmacy  
6 services, appropriate and medically necessary equipment and supplies,  
7 as prescribed by a health care provider, that includes but is not  
8 limited to insulin, syringes, injection aids, blood glucose monitors,  
9 test strips for blood glucose monitors, visual reading and urine test  
10 strips, insulin pumps and accessories to the pumps, insulin infusion  
11 devices, prescriptive oral agents for controlling blood sugar levels,  
12 foot care appliances for prevention of complications associated with  
13 diabetes, and glucagon emergency kits; and

14 (b) For all disability insurance contracts providing health care  
15 services, outpatient self-management training and education,  
16 including medical nutrition therapy, as ordered by the health care  
17 provider. Diabetes outpatient self-management training and education  
18 may be provided only by health care providers with expertise in  
19 diabetes. Nothing in this section prevents the insurer from  
20 restricting patients to seeing only health care providers who have  
21 signed participating provider agreements with the insurer or an  
22 insuring entity under contract with the insurer.

23 (3) (~~Coverage~~) Except as provided in section 5 of this act,  
24 coverage required under this section may be subject to customary  
25 cost-sharing provisions established for all other similar services or  
26 supplies within a policy.

27 (4) Health care coverage may not be reduced or eliminated due to  
28 this section.

29 (5) Services required under this section shall be covered when  
30 deemed medically necessary by the medical director, or his or her  
31 designee, subject to any referral and formulary requirements.

32 (6) The insurer need not include the coverage required in this  
33 section in a group contract offered to an employer or other group  
34 that offers to its eligible enrollees a self-insured health plan not  
35 subject to mandated benefits status under this title that does not  
36 offer coverage similar to that mandated under this section.

37 (7) This section does not apply to the health benefit plan that  
38 provides benefits identical to the schedule of services covered by  
39 the basic health plan, as required by RCW 48.20.028.

1       **Sec. 8.** RCW 48.21.143 and 2004 c 244 s 10 are each amended to  
2 read as follows:

3       The legislature finds that diabetes imposes a significant health  
4 risk and tremendous financial burden on the citizens and government  
5 of the state of Washington, and that access to the medically accepted  
6 standards of care for diabetes, its treatment and supplies, and self-  
7 management training and education is crucial to prevent or delay the  
8 short and long-term complications of diabetes and its attendant  
9 costs.

10       (1) The definitions in this subsection apply throughout this  
11 section unless the context clearly requires otherwise.

12       (a) "Person with diabetes" means a person diagnosed by a health  
13 care provider as having insulin using diabetes, noninsulin using  
14 diabetes, or elevated blood glucose levels induced by pregnancy; and

15       (b) "Health care provider" means a health care provider as  
16 defined in RCW 48.43.005.

17       (2) All group disability insurance contracts and blanket  
18 disability insurance contracts providing health care services, issued  
19 or renewed after January 1, 1998, shall provide benefits for at least  
20 the following services and supplies for persons with diabetes:

21       (a) For group disability insurance contracts and blanket  
22 disability insurance contracts that include coverage for pharmacy  
23 services, appropriate and medically necessary equipment and supplies,  
24 as prescribed by a health care provider, that includes but is not  
25 limited to insulin, syringes, injection aids, blood glucose monitors,  
26 test strips for blood glucose monitors, visual reading and urine test  
27 strips, insulin pumps and accessories to the pumps, insulin infusion  
28 devices, prescriptive oral agents for controlling blood sugar levels,  
29 foot care appliances for prevention of complications associated with  
30 diabetes, and glucagon emergency kits; and

31       (b) For all group disability insurance contracts and blanket  
32 disability insurance contracts providing health care services,  
33 outpatient self-management training and education, including medical  
34 nutrition therapy, as ordered by the health care provider. Diabetes  
35 outpatient self-management training and education may be provided  
36 only by health care providers with expertise in diabetes. Nothing in  
37 this section prevents the insurer from restricting patients to seeing  
38 only health care providers who have signed participating provider  
39 agreements with the insurer or an insuring entity under contract with  
40 the insurer.



1 (3) (~~Coverage~~) Except as provided in section 5 of this act,  
2 coverage required under this section may be subject to customary  
3 cost-sharing provisions established for all other similar services or  
4 supplies within a policy.

5 (4) Health care coverage may not be reduced or eliminated due to  
6 this section.

7 (5) Services required under this section shall be covered when  
8 deemed medically necessary by the medical director, or his or her  
9 designee, subject to any referral and formulary requirements.

10 (6) The insurer need not include the coverage required in this  
11 section in a group contract offered to an employer or other group  
12 that offers to its eligible enrollees a self-insured health plan not  
13 subject to mandated benefits status under this title that does not  
14 offer coverage similar to that mandated under this section.

15 (7) This section does not apply to the health benefit plan that  
16 provides benefits identical to the schedule of services covered by  
17 the basic health plan.

18 **Sec. 9.** RCW 48.44.315 and 2004 c 244 s 12 are each amended to  
19 read as follows:

20 The legislature finds that diabetes imposes a significant health  
21 risk and tremendous financial burden on the citizens and government  
22 of the state of Washington, and that access to the medically accepted  
23 standards of care for diabetes, its treatment and supplies, and self-  
24 management training and education is crucial to prevent or delay the  
25 short and long-term complications of diabetes and its attendant  
26 costs.

27 (1) The definitions in this subsection apply throughout this  
28 section unless the context clearly requires otherwise.

29 (a) "Person with diabetes" means a person diagnosed by a health  
30 care provider as having insulin using diabetes, noninsulin using  
31 diabetes, or elevated blood glucose levels induced by pregnancy; and

32 (b) "Health care provider" means a health care provider as  
33 defined in RCW 48.43.005.

34 (2) All health benefit plans offered by health care service  
35 contractors, issued or renewed after January 1, 1998, shall provide  
36 benefits for at least the following services and supplies for persons  
37 with diabetes:

38 (a) For health benefit plans that include coverage for pharmacy  
39 services, appropriate and medically necessary equipment and supplies,

1 as prescribed by a health care provider, that includes but is not  
2 limited to insulin, syringes, injection aids, blood glucose monitors,  
3 test strips for blood glucose monitors, visual reading and urine test  
4 strips, insulin pumps and accessories to the pumps, insulin infusion  
5 devices, prescriptive oral agents for controlling blood sugar levels,  
6 foot care appliances for prevention of complications associated with  
7 diabetes, and glucagon emergency kits; and

8 (b) For all health benefit plans, outpatient self-management  
9 training and education, including medical nutrition therapy, as  
10 ordered by the health care provider. Diabetes outpatient self-  
11 management training and education may be provided only by health care  
12 providers with expertise in diabetes. Nothing in this section  
13 prevents the health care services contractor from restricting  
14 patients to seeing only health care providers who have signed  
15 participating provider agreements with the health care services  
16 contractor or an insuring entity under contract with the health care  
17 services contractor.

18 (3) (~~Coverage~~) Except as provided in section 5 of this act,  
19 coverage required under this section may be subject to customary  
20 cost-sharing provisions established for all other similar services or  
21 supplies within a policy.

22 (4) Health care coverage may not be reduced or eliminated due to  
23 this section.

24 (5) Services required under this section shall be covered when  
25 deemed medically necessary by the medical director, or his or her  
26 designee, subject to any referral and formulary requirements.

27 (6) The health care service contractor need not include the  
28 coverage required in this section in a group contract offered to an  
29 employer or other group that offers to its eligible enrollees a self-  
30 insured health plan not subject to mandated benefits status under  
31 this title that does not offer coverage similar to that mandated  
32 under this section.

33 (7) This section does not apply to the health benefit plans that  
34 provide benefits identical to the schedule of services covered by the  
35 basic health plan.

36 **Sec. 10.** RCW 48.46.272 and 2004 c 244 s 14 are each amended to  
37 read as follows:

38 The legislature finds that diabetes imposes a significant health  
39 risk and tremendous financial burden on the citizens and government

1 of the state of Washington, and that access to the medically accepted  
2 standards of care for diabetes, its treatment and supplies, and self-  
3 management training and education is crucial to prevent or delay the  
4 short and long-term complications of diabetes and its attendant  
5 costs.

6 (1) The definitions in this subsection apply throughout this  
7 section unless the context clearly requires otherwise.

8 (a) "Person with diabetes" means a person diagnosed by a health  
9 care provider as having insulin using diabetes, noninsulin using  
10 diabetes, or elevated blood glucose levels induced by pregnancy; and

11 (b) "Health care provider" means a health care provider as  
12 defined in RCW 48.43.005.

13 (2) All health benefit plans offered by health maintenance  
14 organizations, issued or renewed after January 1, 1998, shall provide  
15 benefits for at least the following services and supplies for persons  
16 with diabetes:

17 (a) For health benefit plans that include coverage for pharmacy  
18 services, appropriate and medically necessary equipment and supplies,  
19 as prescribed by a health care provider, that includes but is not  
20 limited to insulin, syringes, injection aids, blood glucose monitors,  
21 test strips for blood glucose monitors, visual reading and urine test  
22 strips, insulin pumps and accessories to the pumps, insulin infusion  
23 devices, prescriptive oral agents for controlling blood sugar levels,  
24 foot care appliances for prevention of complications associated with  
25 diabetes, and glucagon emergency kits; and

26 (b) For all health benefit plans, outpatient self-management  
27 training and education, including medical nutrition therapy, as  
28 ordered by the health care provider. Diabetes outpatient self-  
29 management training and education may be provided only by health care  
30 providers with expertise in diabetes. Nothing in this section  
31 prevents the health maintenance organization from restricting  
32 patients to seeing only health care providers who have signed  
33 participating provider agreements with the health maintenance  
34 organization or an insuring entity under contract with the health  
35 maintenance organization.

36 (3) (~~Coverage~~) Except as provided in section 5 of this act,  
37 coverage required under this section may be subject to customary  
38 cost-sharing provisions established for all other similar services or  
39 supplies within a policy.

1           (4) Health care coverage may not be reduced or eliminated due to  
2 this section.

3           (5) Services required under this section shall be covered when  
4 deemed medically necessary by the medical director, or his or her  
5 designee, subject to any referral and formulary requirements.

6           (6) The health maintenance organization need not include the  
7 coverage required in this section in a group contract offered to an  
8 employer or other group that offers to its eligible enrollees a self-  
9 insured health plan not subject to mandated benefits status under  
10 this title that does not offer coverage similar to that mandated  
11 under this section.

12           (7) This section does not apply to the health benefit plans that  
13 provide benefits identical to the schedule of services covered by the  
14 basic health plan.

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