
SECOND SUBSTITUTE HOUSE BILL 2662

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 copayments, deductibles, or other forms of cost
10 sharing for the drug at an amount not to exceed one hundred dollars
11 per thirty-day supply of the drug.

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

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

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

30 (1) Except as required in subsection (2) of this section, a
31 health plan offered to public employees and their covered dependents
32 under this chapter that is issued or renewed by the board on or after
33 January 1, 2021, that provides coverage for prescription insulin
34 drugs for the treatment of diabetes must cap copayments, deductibles,
35 or other forms of cost sharing for the drug at an amount not to
36 exceed one hundred dollars per thirty-day supply of the drug.

37 (2) If the federal internal revenue service removes insulin from
38 the list of preventive care services which can be covered by a

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

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

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

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

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

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

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

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

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

37 (a) For disability insurance contracts that include pharmacy
38 services, appropriate and medically necessary equipment and supplies,
39 as prescribed by a health care provider, that includes but is not

1 limited to insulin, syringes, injection aids, blood glucose monitors,
2 test strips for blood glucose monitors, visual reading and urine test
3 strips, insulin pumps and accessories to the pumps, insulin infusion
4 devices, prescriptive oral agents for controlling blood sugar levels,
5 foot care appliances for prevention of complications associated with
6 diabetes, and glucagon emergency kits; and

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

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

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

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

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

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

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

35 The legislature finds that diabetes imposes a significant health
36 risk and tremendous financial burden on the citizens and government
37 of the state of Washington, and that access to the medically accepted
38 standards of care for diabetes, its treatment and supplies, and self-
39 management training and education is crucial to prevent or delay the

1 short and long-term complications of diabetes and its attendant
2 costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (a) For health benefit plans that include coverage for pharmacy
33 services, appropriate and medically necessary equipment and supplies,
34 as prescribed by a health care provider, that includes but is not
35 limited to insulin, syringes, injection aids, blood glucose monitors,
36 test strips for blood glucose monitors, visual reading and urine test
37 strips, insulin pumps and accessories to the pumps, insulin infusion
38 devices, prescriptive oral agents for controlling blood sugar levels,

1 foot care appliances for prevention of complications associated with
2 diabetes, and glucagon emergency kits; and

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

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

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

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

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

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

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

33 The legislature finds that diabetes imposes a significant health
34 risk and tremendous financial burden on the citizens and government
35 of the state of Washington, and that access to the medically accepted
36 standards of care for diabetes, its treatment and supplies, and self-
37 management training and education is crucial to prevent or delay the
38 short and long-term complications of diabetes and its attendant
39 costs.

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

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

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

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

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

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

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

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

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

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

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

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