

SENATE BILL REPORT

SB 5776

As of February 2, 2024

Title: An act relating to accessing an emergency supply of insulin.

Brief Description: Accessing an emergency supply of insulin.

Sponsors: Senators Keiser, Cleveland, Randall, Van De Wege, Conway, Dhingra, Kauffman, Hasegawa, Hunt, Kuderer, Lovick, Mullet, Nguyen, Nobles, Salomon, Stanford, Valdez and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 1/11/24, 1/25/24 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/02/24.

Brief Summary of First Substitute Bill

- Creates a program for eligible individuals to receive one emergency 30-day supply of insulin within a 12-month period for a maximum cost sharing amount of \$10.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5776 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Conway, Dhingra, Randall and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Rivers, Ranking Member; Muzzall, Assistant Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Holy and Padden.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Greg Attanasio (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sandy Stith (786-7710)

Background: Drug Consortium. In 2003, the Legislature instructed the Health Care Authority to come up with a way for state agencies that purchase prescription drugs to control costs without reducing the quality of care when reimbursing for, or purchasing, drugs. This became the Washington Prescription Drug Program (WPDP).

In 2005, the Legislature expanded WPDP's mission by authorizing it to adopt policies necessary to establish a prescription drug purchasing consortium. The consortium would include a drug discount card for consumers and pharmacy benefit management services for groups.

In 2006, Washington and Oregon established the Northwest Prescription Drug Consortium, which allowed Washington and Oregon to coordinate their programs and resources and pool their drug purchasing power to lower costs, negotiate discounts with manufacturers, centralize the purchasing of prescription drugs and establish volume discount contracting.

In 2021, the Northwest Prescription Drug Consortium changed its name to ArrayRx.

Out-of-Pocket Expenses for Insulin. In 2020, the Legislature directed health plans, beginning January 1, 2021, to limit an enrollee's out-of-pocket expenses for insulin to \$100 for a 30-day supply until January 1, 2023. In 2022, the Legislature amended the statute to reduce the limit on out-of-pocket expenses for a 30-day supply of insulin to \$35 until January 1, 2024, and in 2023 the Legislature removed the expiration date for the \$35 limit. Also in 2023, the federal government limited out-of-pocket expenses for a 30-day supply of insulin to \$35 for Medicare enrollees.

Summary of Bill (First Substitute): The Health Care Authority (HCA) shall establish an emergency insulin program under the prescription drug purchasing consortium (consortium) to allow eligible individuals to access one emergency 30-day supply of insulin within a 12-month period for a maximum out-of-pocket cost of \$10 beginning in 2025.

To be eligible, an individual must:

- be a resident of Washington;
- not be enrolled in Medicaid;
- not be enrolled in prescription drug coverage that limits out-of-pocket expenses for a 30-day supply of insulin to \$35 or less;
- have a valid prescription for insulin; and
- have less than a seven day supply.

HCA must establish a process to allow individuals to attest to their eligibility . Upon attestation, the consortium must provide the individual a voucher to receive insulin from a pharmacy in the consortium's network. The pharmacy may charge up to a \$10 fee to cover the costs of dispensing the insulin. The pharmacy may submit a claim for reimbursement for the dispensed insulin to the consortium and the consortium must reimburse the pharmacy within 30 days. At least quarterly, the consortium must invoice insulin manufacturers for the cost of the dispensed insulin and the manufacturers must remit payment to the consortium within 30 days.

HCA may assess a fine of up to \$10,000 for each failure of a manufacturer to comply with the reimbursement requirements of this act.

HCA must publicize manufacturer patient assistance programs for insulin alongside the emergency insulin program.

HCA may adopt any rules necessary to implement this act.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Modifies the program to direct HCA to establish an emergency insulin program through the prescription drug consortium.
- Requires the consortium to issue a voucher to eligible individuals to receive insulin from a network pharmacy.
- Directs the consortium to reimburse the pharmacies and then seek reimbursement from the drug manufacturers.
- Directs HCA to publicize manufacturer patient assistance programs for insulin alongside the emergency insulin program.
- Provides rule making authority to HCA.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2025.

Staff Summary of Testimony on Original Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: This bill will provide a safety net when something unexpected happens. No one should have to ration insulin. This bill establishes a reliable source of insulin in an emergency.

CON: The Minnesota program that this bill is modeled after is being challenged in court

because manufacturers are required to provide insulin without compensation. The net price of insulin has decreased but patients do not see the benefit. Manufacturers provide patient assistance programs to help with affordability.

OTHER: The goal of the bill is a good one, but the Colorado model is preferred because it takes pharmacies out of the process.

Persons Testifying (Health & Long Term Care): PRO: Senator Karen Keiser, Prime Sponsor; Carissa Kemp, American Diabetes Association; Jennifer Perkins; Jennifer Arnold; Matthew Hepner, East Wenatchee city council.

CON: Brian Warren, Biotechnology Innovation Organization; Emily Wittman, Association of Washington Business; Dharia McGrew, Pharmaceutical Research and Manufacturers of America.

OTHER: Donna Sullivan, Health Care Authority (HCA); Mark Johnson, Washington Retail Association.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: There are programs like this in Minnesota and Colorado. This helps people who have a sudden expense. It is episodic and not ongoing. This is for people who usually have a supply of insulin available and have an emergency. This will help people with diabetes if they fall on hard times. It will help union members with gaps in their coverage when they need it because they don't qualify for the cap. Robust patient assistance doesn't work. If Colorado can figure out how to make this work, so can we.

CON: This is similar to Minnesota, whose program is unconstitutional. This has cost manufacturers in Minnesota around \$6 million. This violates the 5th amendment as an illegal taking. There is already an extensive network out there that helps people get insulin. This is duplicative.

Persons Testifying (Ways & Means): PRO: Senator Karen Keiser, Prime Sponsor; Madison Johnson, Washington #insulin4all; Matthew Hepner, IBEW/ceww; Haven Hepner, constituent.

CON: Emily Wittman, Association of Washington Business; Brian Warren, Biotechnology Innovation Organization; Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.