

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2140

Introduced by

Senators Mathern, Dever

Representatives Hanson, McLeod, Pyle, Schauer

1 A BILL for an Act to create and enact section 26.1-36-09.16 of the North Dakota Century Code,
2 relating to accident and health insurance coverage of diabetes drugs and supplies; to amend
3 and reenact section 26.1-36.6-03 of the North Dakota Century Code, relating to public
4 employees self-insurance health plans; to provide for application; to provide an effective date;
5 and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Section 26.1-36-09.16 of the North Dakota Century Code is created and
8 enacted as follows:

9 **26.1-36-09.16. Insulin drug and supply ~~cost-sharing limitations and formulary~~**
10 **limitationsout-of-pocket limitations.**

11 1. As used in this section:

12 a. "Insulin drug" means a prescription drug that contains insulin and is used to treat
13 a form of diabetes mellitus. The term does not include an insulin pump, an
14 electronic insulin-administering smart pen, or a continuous glucose monitor, or
15 supplies needed specifically for the use of such electronic devices. The term
16 includes insulin in the following categories:

17 (1) Rapid-acting insulin;

18 (2) Short-acting insulin;

19 (3) Intermediate-acting insulin;

20 (4) Long-acting insulin;

21 (5) Premixed insulin product;

22 (6) Premixed insulin/GLP-1 RA product; and

23 (7) Concentrated human regular insulin.

b. "Medical supplies for insulin dosing and administration" means supplies needed for proper insulin dosing, as well as supplies needed to detect or address medical emergencies in an individual using insulin to manage diabetes mellitus. The term does not include an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor, or supplies needed specifically for the use of such electronic devices. The term includes:

(1) Blood glucose meters;

(2) Blood glucose test strips;

(3) Lancing devices and lancets;

(4) Ketone testing supplies, such as urine strips, blood ketone meters, and blood ketone strips;

(5) Glucagon, in injectable ~~or~~ and nasal forms;

(6) Insulin pen needles; and

(7) Insulin syringes.

c. "Pharmacy or distributor" means a pharmacy or medical supply company, or other medication or medical supply distributor filling a covered individual's prescriptions.

d. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.

2. An insurer may not deliver, issue, execute, or renew a policy that provides coverage for an insulin drug or medical supplies for insulin dosing and administration unless the policy complies with this section.

3. ~~The~~A policy must ~~provide cost-sharing~~ ~~limit out-of-pocket costs~~ for a thirty-day supply of:

a. ~~Prescribed~~~~Covered~~ insulin drugs which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or type of insulin drug used to fill the covered individual's prescription needs.

b. ~~Prescribed~~~~Covered~~ medical supplies for insulin dosing and administration, the total of which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or manufacturer of supplies used to fill the covered individual's prescription needs.

- 1 4. A policy may not allow a pharmacy benefits manager or the pharmacy or distributor to
2 charge, require the pharmacy or distributor to collect, or require a covered individual to
3 make, a ~~cost-sharing~~ payment for a covered insulin drug or medical supplies for insulin
4 dosing and administration in an amount that exceeds the ~~amount of the cost-sharing~~
5 ~~payment for the prescribed insulin drugs or prescribed medical supplies for insulin~~
6 ~~dosing and administration~~ out-of-pocket limits set forth under subsection 3.
- 7 5. A policy may not ~~allow for the use of a formulary to determine coverage of an insulin~~
8 ~~drug or medical supplies for insulin dosing and administration~~ impose a deductible,
9 copayment, coinsurance, or other cost-sharing requirement that causes out-of-pocket
10 costs for prescribed insulin or medical supplies for insulin dosing and administration to
11 exceed the amount set forth under subsection 3.
- 12 6. Subsection 3 does not require a policy to implement a particular cost-sharing structure
13 and does not prevent ~~the implementation of cost-sharing in an amount~~ a policy from
14 limiting out-of-pocket costs to less than the amount specified under subsection 3.
15 Subsection 3 does not limit ~~cost-sharing~~ out-of-pocket costs on an insulin pump, an
16 electronic insulin-administering smart pen, or a continuous glucose monitor. This
17 section does not limit whether a policy classifies an insulin pump, an electronic insulin-
18 administering smart pen, or a continuous glucose monitor as a drug or as a medical
19 device or supply.

20 **SECTION 2. AMENDMENT.** Section 26.1-36.6-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **26.1-36.6-03. Self-insurance health plans - Requirements.**

- 23 1. The following policy provisions apply to a self-insurance health plan or to the
24 administrative services only or third-party administrator, and are subject to the
25 jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10,
26 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17,
27 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39,
28 26.1-36-41, 26.1-36-44, and 26.1-36-46.
- 29 2. The following health benefit provisions applicable to a group accident and health
30 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
31 subject to the jurisdiction of the commissioner: 26.1-36-06, 26.1-36-06.1, 26.1-36-07,

1 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2, 26.1-36-09.3,
2 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9, 26.1-36-09.10,
3 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14, 26.1-36-09.15,
4 26.1-36-09.16, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22,
5 26.1-36-23.1, and 26.1-36-43.

6 **SECTION 3. APPLICATION.** This Act applies to a policy delivered, issued, executed, or
7 renewed after June 30, 2023.

8 **SECTION 4. EFFECTIVE DATE.** This Act becomes effective July 1, 2023.

9 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.