

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 **limitations out-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.

- 1 b. "Medical supplies for insulin dosing and administration" means supplies needed
2 for proper insulin dosing, as well as supplies needed to detect or address medical
3 emergencies in an individual using insulin to manage diabetes mellitus. The term
4 does not include an insulin pump, an electronic insulin-administering smart pen,
5 or a continuous glucose monitor, or supplies needed specifically for the use of
6 such electronic devices. The term includes:
- 7 (1) Blood glucose meters;
8 (2) Blood glucose test strips;
9 (3) Lancing devices and lancets;
10 (4) Ketone testing supplies, such as urine strips, blood ketone meters, and
11 blood ketone strips;
12 (5) Glucagon, in injectable ~~or~~ and nasal forms;
13 (6) Insulin pen needles; and
14 (7) Insulin syringes.
- 15 c. "Pharmacy or distributor" means a pharmacy or medical supply company, or
16 other medication or medical supply distributor filling a covered individual's
17 prescriptions.
- 18 d. "Policy" means an accident and health insurance policy, contract, or evidence of
19 coverage on a group, individual, blanket, franchise, or association basis.
- 20 2. An insurer may not deliver, issue, execute, or renew a policy that provides coverage
21 for an insulin drug or medical supplies for insulin dosing and administration unless the
22 policy complies with this section.
- 23 3. TheA policy must ~~provide cost-sharing~~ ~~limit out-of-pocket costs~~ for a thirty-day supply
24 of:
- 25 a. ~~Prescribed~~ ~~Covered~~ insulin drugs which may not exceed twenty-five dollars per
26 pharmacy or distributor, regardless of the quantity or type of insulin drug used to
27 fill the covered individual's prescription needs.
- 28 b. ~~Prescribed~~ ~~Covered~~ medical supplies for insulin dosing and administration, the
29 total of which may not exceed twenty-five dollars per pharmacy or distributor,
30 regardless of the quantity or manufacturer of supplies used to fill the covered
31 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.