

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.~~ for an Act to create and enact a new section to chapter 54-52.1 of
 6 the North Dakota Century Code, relating to public employee insulin drug and supplies benefits;
 7 to amend and reenact subsection 2 of section 26.1-36.6-03 of the North Dakota Century Code,
 8 relating to self-insurance health plans; to provide for a report; to provide for application; to
 9 provide an expiration date; and to declare an emergency.

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

11 ~~SECTION 1. Section 26.1-36-09.16 of the North Dakota Century Code is created and~~
 12 ~~enacted as follows:~~
 13 ~~**26.1-36-09.16. Insulin drug and supply cost sharing limitations and formulary**~~
 14 ~~**limitations.**~~
 15 ~~1. As used in this section:~~
 16 ~~a. "Insulin drug" means a prescription drug that contains insulin and is used to treat~~
 17 ~~a form of diabetes mellitus. The term does not include an insulin pump, an~~
 18 ~~electronic insulin-administering smart pen, or a continuous glucose monitor, or~~
 19 ~~supplies needed specifically for the use of such electronic devices. The term~~
 20 ~~includes insulin in the following categories:~~
 21 ~~(1) Rapid-acting insulin;~~
 22 ~~(2) Short-acting insulin;~~
 23 ~~(3) Intermediate-acting insulin;~~
 24 ~~(4) Long-acting insulin;~~

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

1 ~~of the quantity or manufacturer of supplies used to fill the covered individual's~~
2 ~~prescription needs.~~

3 ~~4. A policy may not allow a pharmacy benefits manager or the pharmacy or distributor to~~
4 ~~charge, require the pharmacy or distributor to collect, or require a covered individual to~~
5 ~~make a cost-sharing payment for a covered insulin drug or medical supplies for insulin~~
6 ~~dosing and administration in an amount that exceeds the amount of the cost-sharing~~
7 ~~payment for the prescribed insulin drugs or prescribed medical supplies for insulin~~
8 ~~dosing and administration under subsection 3.~~

9 ~~5. A policy may not allow for the use of a formulary to determine coverage of an insulin~~
10 ~~drug or medical supplies for insulin dosing and administration.~~

11 ~~6. Subsection 3 does not require a policy to implement cost-sharing and does not~~
12 ~~prevent the implementation of cost-sharing in an amount less than the amount~~
13 ~~specified under subsection 3. Subsection 3 does not limit cost-sharing on an insulin~~
14 ~~pump, an electronic insulin-administering smart pen, or a continuous glucose monitor.~~
15 ~~This section does not limit whether a policy classifies an insulin pump, an electronic~~
16 ~~insulin-administering smart pen, or a continuous glucose monitor as a drug or as a~~
17 ~~medical device or supply.~~

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

20 ~~**26.1-36.6-03. Self-insurance health plans - Requirements.**~~

21 ~~1. The following policy provisions apply to a self-insurance health plan or to the~~
22 ~~administrative services only or third-party administrator, and are subject to the~~
23 ~~jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10,~~
24 ~~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,~~
25 ~~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,~~
26 ~~26.1-36-41, 26.1-36-44, and 26.1-36-46.~~

27 ~~2. The following health benefit provisions applicable to a group accident and health~~
28 ~~insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are~~
29 ~~subject to the jurisdiction of the commissioner: 26.1-36-06, 26.1-36-06.1, 26.1-36-07,~~
30 ~~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,~~
31 ~~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,~~

~~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,
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,
26.1-36-23.1, and 26.1-36-43.~~

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

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

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

SECTION 1. AMENDMENT. Subsection 2 of section 26.1-36.6-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The following health benefit provisions applicable to a group accident and health insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1, 26.1-36-07, 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, 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, 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, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22, 26.1-36-23.1, and 26.1-36-43. Section 2 of this Act applies to a self-insurance health plan and is subject to the jurisdiction of the commissioner.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Health insurance benefits coverage - Insulin drug and supply out-of-pocket limitations.

1. As used in this section:

- a. "Insulin drug" means a prescription drug that contains insulin and is used to treat a form of 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 insulin in the following categories:

- (1) Rapid-acting insulin;

- (2) Short-acting insulin;

- (3) Intermediate-acting insulin;

- 1 (4) Long-acting insulin;
- 2 (5) Premixed insulin product;
- 3 (6) Premixed insulin/GLP-1 RA product; and
- 4 (7) Concentrated human regular insulin.
- 5 b. "Medical supplies for insulin dosing and administration" means supplies needed
- 6 for proper insulin dosing, as well as supplies needed to detect or address medical
- 7 emergencies in an individual using insulin to manage diabetes mellitus. The term
- 8 does not include an insulin pump, an electronic insulin-administering smart pen,
- 9 or a continuous glucose monitor, or supplies needed specifically for the use of
- 10 such electronic devices. The term includes:
- 11 (1) Blood glucose meters;
- 12 (2) Blood glucose test strips;
- 13 (3) Lancing devices and lancets;
- 14 (4) Ketone testing supplies, such as urine strips, blood ketone meters, and
- 15 blood ketone strips;
- 16 (5) Glucagon, in injectable and nasal forms;
- 17 (6) Insulin pen needles; and
- 18 (7) Insulin syringes.
- 19 c. "Pharmacy or distributor" means a pharmacy or medical supply company, or
- 20 other medication or medical supply distributor filling a covered individual's
- 21 prescriptions.
- 22 2. The board shall provide health insurance benefits coverage that provides for insulin
- 23 drug and medical supplies for insulin dosing and administration which complies with
- 24 this section.
- 25 3. The coverage must limit out-of-pocket costs for a thirty-day supply of:
- 26 a. Covered insulin drugs which may not exceed twenty-five dollars per pharmacy or
- 27 distributor, regardless of the quantity or type of insulin drug used to fill the
- 28 covered individual's prescription needs.
- 29 b. Covered medical supplies for insulin dosing and administration, the total of which
- 30 may not exceed twenty-five dollars per pharmacy or distributor, regardless of the

1 quantity or manufacturer of supplies used to fill the covered individual's
2 prescription needs.

3 4. The coverage may not allow a pharmacy benefits manager or the pharmacy or
4 distributor to charge, require the pharmacy or distributor to collect, or require a
5 covered individual to make a payment for a covered insulin drug or medical supplies
6 for insulin dosing and administration in an amount that exceeds the out-of-pocket limits
7 set forth under subsection 3.

8 5. The coverage may not impose a deductible, copayment, coinsurance, or other cost-
9 sharing requirement that causes out-of-pocket costs for prescribed insulin or medical
10 supplies for insulin dosing and administration to exceed the amount set forth under
11 subsection 3.

12 6. Subsection 3 does not require the coverage to implement a particular cost-sharing
13 structure and does not prevent the limitation of out-of-pocket costs to less than the
14 amount specified under subsection 3. Subsection 3 does not limit out-of-pocket costs
15 on an insulin pump, an electronic insulin-administering smart pen, or a continuous
16 glucose monitor. This section does not limit whether coverage classifies an insulin
17 pump, an electronic insulin-administering smart pen, or a continuous glucose monitor
18 as a drug or as a medical device or supply.

19 **SECTION 3. APPLICATION.** This Act applies to public employees retirement system health
20 benefits coverage that begins after June 30, 2023, and which does not extend past June 30,
21 2025.

22 **SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM - INSULIN DRUG AND**
23 **SUPPLIES BENEFITS - REPORT.** Pursuant to section 54-03-28, the public employees
24 retirement system shall prepare and submit for introduction a bill to the sixty-ninth legislative
25 assembly to repeal the expiration date for this Act and to extend the coverage of insulin drug
26 and supplies benefits to all group and individual health insurance policies. The public
27 employees retirement system shall append a report to the bill regarding the effect of the insulin
28 drug and supplies benefits requirement on the system's health insurance programs, information
29 on the utilization and costs relating to the coverage, and a recommendation regarding whether
30 the coverage should be continued.

1 **SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that
2 date is ineffective.

3 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.