

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED 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 out-of-pocket limitations.**

10 1. As used in this section:

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

16 (1) Rapid-acting insulin;

17 (2) Short-acting insulin;

18 (3) Intermediate-acting insulin;

19 (4) Long-acting insulin;

20 (5) Premixed insulin product;

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

22 (7) Concentrated human regular insulin.

23 b. "Medical supplies for insulin dosing and administration" means supplies needed
24 for proper insulin dosing, as well as supplies needed to detect or address medical

1 emergencies in an individual using insulin to manage diabetes mellitus. The term
2 does not include an insulin pump, an electronic insulin-administering smart pen,
3 or a continuous glucose monitor, or supplies needed specifically for the use of
4 such electronic devices. The term includes:

5 (1) Blood glucose meters;

6 (2) Blood glucose test strips;

7 (3) Lancing devices and lancets;

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

10 (5) Glucagon, in injectable and nasal forms;

11 (6) Insulin pen needles; and

12 (7) Insulin syringes.

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

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

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

21 3. A policy must limit out-of-pocket costs for a thirty-day supply of:

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

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

29 4. A policy may not allow a pharmacy benefits manager or the pharmacy or distributor to
30 charge, require the pharmacy or distributor to collect, or require a covered individual to
31 make, a payment for a covered insulin drug or medical supplies for insulin dosing and

1 administration in an amount that exceeds the out-of-pocket limits set forth under
2 subsection 3.

3 5. A policy may not impose a deductible, copayment, coinsurance, or other cost-sharing
4 requirement that causes out-of-pocket costs for prescribed insulin or medical supplies
5 for insulin dosing and administration to exceed the amount set forth under
6 subsection 3.

7 6. Subsection 3 does not require a policy to implement a particular cost-sharing structure
8 and does not prevent a policy from limiting out-of-pocket costs to less than the amount
9 specified under subsection 3. Subsection 3 does not limit out-of-pocket costs on an
10 insulin pump, an electronic insulin-administering smart pen, or a continuous glucose
11 monitor. This section does not limit whether a policy classifies an insulin pump, an
12 electronic insulin-administering smart pen, or a continuous glucose monitor as a drug
13 or as a medical device or supply.

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

16 **26.1-36.6-03. Self-insurance health plans - Requirements.**

17 1. The following policy provisions apply to a self-insurance health plan or to the
18 administrative services only or third-party administrator, and are subject to the
19 jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10,
20 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,
21 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,
22 26.1-36-41, 26.1-36-44, and 26.1-36-46.

23 2. The following health benefit provisions applicable to a group accident and health
24 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
25 subject to the jurisdiction of the commissioner: 26.1-36-06, 26.1-36-06.1, 26.1-36-07,
26 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,
27 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,
28 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,
29 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,
30 26.1-36-23.1, and 26.1-36-43.

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

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

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