

E2SHB 2662 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 03/06/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that:

4 (a) Insulin is a life-saving drug and is critical to the
5 management of diabetes as it helps patients control their blood sugar
6 levels;

7 (b) According to Yale researchers, one-quarter of patients with
8 Type 1 or 2 diabetes have reported using less insulin than prescribed
9 due to the high cost of insulin;

10 (c) The first insulin patent in the United States was awarded in
11 1923 and the first synthetic insulin arrived on the market in 1978;
12 and

13 (d) The price and utilization of insulin has steadily increased,
14 making it one of the costliest prescription drugs in the state.
15 According to the Washington all-payer claims database, the allowable
16 costs before rebates for health carriers in the state have increased
17 eighty-seven percent since 2014, and per member out-of-pocket costs
18 have increased an average of eighteen percent over the same time
19 period.

20 (2) Therefore, the legislature intends to review, consider, and
21 pursue several strategies with the goal of reducing the cost of
22 insulin in Washington.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.14
24 RCW to read as follows:

25 (1) The total cost of insulin work group is established. The work
26 group membership must consist of the insurance commissioner or
27 designee and the following members appointed by the governor:

28 (a) A representative from the prescription drug purchasing
29 consortium described in RCW 70.14.060;

30 (b) A representative from the pharmacy quality assurance
31 commission;

- 1 (c) A representative from an association representing independent
2 pharmacies;
- 3 (d) A representative from an association representing chain
4 pharmacies;
- 5 (e) A representative from each health carrier offering at least
6 one health plan in a commercial market in the state;
- 7 (f) A representative from each health carrier offering at least
8 one health plan to state or public school employees in the state;
- 9 (g) A representative from an association representing health
10 carriers;
- 11 (h) A representative from the public employees' benefits board or
12 the school employees' benefits board;
- 13 (i) A representative from the health care authority;
- 14 (j) A representative from a pharmacy benefit manager that
15 contracts with state purchasers;
- 16 (k) A representative from a drug distributor or wholesaler that
17 distributes or sells insulin in the state;
- 18 (l) A representative from a state agency that purchases health
19 care services and drugs for a selected population;
- 20 (m) A representative from the attorney general's office with
21 expertise in prescription drug purchasing; and
- 22 (n) A representative from an organization representing diabetes
23 patients who is living with diabetes.
- 24 (2) The work group must review and design strategies to reduce
25 the cost of and total expenditures on insulin in this state.
26 Strategies the work group must consider include, but are not limited
27 to, a state agency becoming a licensed drug wholesaler, a state
28 agency becoming a registered pharmacy benefit manager, and a state
29 agency purchasing prescription drugs on behalf of the state directly
30 from other states or in coordination with other states.
- 31 (3) Staff support for the work group shall be provided by the
32 health care authority.
- 33 (4) By December 1, 2020, the work group must submit a preliminary
34 report detailing strategies to reduce the cost of and total
35 expenditures on insulin for patients, health carriers, payers, and
36 the state. The work group must submit a final report by July 1, 2021,
37 to the governor and the legislature. The final report must include
38 any statutory changes necessary to implement the strategies.
- 39 (5) This section expires December 1, 2022.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.14
2 RCW to read as follows:

3 (1) In order to implement strategies recommended by the total
4 cost of insulin work group established in section 2 of this act, the
5 health care authority may:

6 (a) Become or designate a state agency that shall become a drug
7 wholesaler licensed under RCW 18.64.046;

8 (b) Become or designate a state agency that shall become a
9 pharmacy benefit manager registered under RCW 19.340.030; or

10 (c) Purchase prescription drugs on behalf of the state directly
11 from other states or in coordination with other states.

12 (2) In addition to the authorities granted in subsection (1) of
13 this section, if the total cost of insulin work group established in
14 section 2 of this act determines that all or a portion of the
15 strategies may be implemented without statutory changes, the health
16 care authority and the prescription drug purchasing consortium
17 described in RCW 70.14.060 shall begin implementation without further
18 legislative direction.

19 **Sec. 4.** RCW 70.14.060 and 2009 c 560 s 13 are each amended to
20 read as follows:

21 (1) (a) The administrator of the state health care authority
22 shall, directly or by contract, adopt policies necessary for
23 establishment of a prescription drug purchasing consortium. The
24 consortium's purchasing activities shall be based upon the evidence-
25 based prescription drug program established under RCW 70.14.050.
26 State purchased health care programs as defined in RCW 41.05.011
27 shall purchase prescription drugs through the consortium for those
28 prescription drugs that are purchased directly by the state and those
29 that are purchased through reimbursement of pharmacies, unless
30 exempted under ~~((this section))~~ (b) of this subsection. The
31 administrator shall not require any supplemental rebate offered to
32 the ~~((department of social and health services))~~ health care
33 authority by a pharmaceutical manufacturer for prescription drugs
34 purchased for medical assistance program clients under chapter 74.09
35 RCW be extended to any other state purchased health care program, or
36 to any other individuals or entities participating in the consortium.
37 The administrator shall explore joint purchasing opportunities with
38 other states.

1 (b) State purchased health care programs are exempt from the
2 requirements of this section if they can demonstrate to the
3 administrator of the state health care authority that, as a result of
4 the availability of federal programs or other purchasing
5 arrangements, their other purchasing mechanisms will result in
6 greater discounts and aggregate cost savings than would be realized
7 through participation in the consortium.

8 (2) Participation in the purchasing consortium shall be offered
9 as an option beginning January 1, 2006. Participation in the
10 consortium is purely voluntary for units of local government, private
11 entities, labor organizations, health carriers as provided in RCW
12 48.43.005, state purchased health care services from or through
13 health carriers as provided in RCW 48.43.005, and for individuals who
14 lack or are underinsured for prescription drug coverage. The
15 administrator may set reasonable fees, including enrollment fees, to
16 cover administrative costs attributable to participation in the
17 prescription drug consortium.

18 ~~(3) ((This section does not apply to state purchased health care~~
19 ~~services that are purchased from or through health carriers as~~
20 ~~defined in RCW 48.43.005, or group model health maintenance~~
21 ~~organizations that are accredited by the national committee for~~
22 ~~quality assurance.~~

23 ~~(4))~~ The state health care authority is authorized to adopt
24 rules implementing chapter 129, Laws of 2005.

25 ~~((5) State purchased health care programs are exempt from the~~
26 ~~requirements of this section if they can demonstrate to the~~
27 ~~administrator that, as a result of the availability of federal~~
28 ~~programs or other purchasing arrangements, their other purchasing~~
29 ~~mechanisms will result in greater discounts and aggregate cost~~
30 ~~savings than would be realized through participation in the~~
31 ~~consortium.))~~

32 NEW SECTION. Sec. 5. A new section is added to chapter 48.43
33 RCW to read as follows:

34 (1) Except as required in subsection (2) of this section, a
35 health plan issued or renewed on or after January 1, 2021, that
36 provides coverage for prescription insulin drugs for the treatment of
37 diabetes must cap the total amount that an enrollee is required to
38 pay for a covered insulin drug at an amount not to exceed one hundred
39 dollars per thirty-day supply of the drug. Prescription insulin drugs

1 must be covered without being subject to a deductible, and any cost
2 sharing paid by an enrollee must be applied toward the enrollee's
3 deductible obligation.

4 (2) If the federal internal revenue service removes insulin from
5 the list of preventive care services which can be covered by a
6 qualifying health plan for a health savings account before the
7 deductible is satisfied, for a health plan that provides coverage for
8 prescription insulin drugs for the treatment of diabetes and is
9 offered as a qualifying health plan for a health savings account, the
10 carrier must establish the plan's cost sharing for the coverage of
11 prescription insulin for diabetes at the minimum level necessary to
12 preserve the enrollee's ability to claim tax exempt contributions
13 from his or her health savings account under internal revenue service
14 laws and regulations. The office of the insurance commissioner must
15 provide written notice of the change in internal revenue service
16 guidance to affected parties, the chief clerk of the house of
17 representatives, the secretary of the senate, the office of the code
18 reviser, and others as deemed appropriate by the office.

19 (3) This section expires January 1, 2023.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05
21 RCW to read as follows:

22 (1) Except as required in subsection (2) of this section, a
23 health plan offered to public employees and their covered dependents
24 under this chapter that is issued or renewed by the board on or after
25 January 1, 2021, that provides coverage for prescription insulin
26 drugs for the treatment of diabetes must cap the total amount that an
27 enrollee is required to pay for a covered insulin drug at an amount
28 not to exceed one hundred dollars per thirty-day supply of the drug.
29 Prescription insulin drugs must be covered without being subject to a
30 deductible, and any cost sharing paid by an enrollee must be applied
31 toward the enrollee's deductible obligation.

32 (2) If the federal internal revenue service removes insulin from
33 the list of preventive care services which can be covered by a
34 qualifying health plan for a health savings account before the
35 deductible is satisfied, for a health plan that provides coverage for
36 prescription insulin drugs for the treatment of diabetes and is
37 offered as a qualifying health plan for a health savings account, the
38 carrier must establish the plan's cost sharing for the coverage of
39 prescription insulin for diabetes at the minimum level necessary to

1 preserve the enrollee's ability to claim tax exempt contributions
2 from his or her health savings account under internal revenue service
3 laws and regulations. The office of the insurance commissioner must
4 provide written notice of the change in internal revenue service
5 guidance to affected parties, the chief clerk of the house of
6 representatives, the secretary of the senate, the office of the code
7 reviser, and others as deemed appropriate by the office.

8 (3) The authority must monitor the wholesale acquisition cost of
9 all insulin products sold in the state.

10 (4) This section expires January 1, 2023.

11 **Sec. 7.** RCW 48.20.391 and 1997 c 276 s 2 are each amended to
12 read as follows:

13 The legislature finds that diabetes imposes a significant health
14 risk and tremendous financial burden on the citizens and government
15 of the state of Washington, and that access to the medically accepted
16 standards of care for diabetes, its treatment and supplies, and self-
17 management training and education is crucial to prevent or delay the
18 short and long-term complications of diabetes and its attendant
19 costs.

20 (1) The definitions in this subsection apply throughout this
21 section unless the context clearly requires otherwise.

22 (a) "Person with diabetes" means a person diagnosed by a health
23 care provider as having insulin using diabetes, noninsulin using
24 diabetes, or elevated blood glucose levels induced by pregnancy; and

25 (b) "Health care provider" means a health care provider as
26 defined in RCW 48.43.005.

27 (2) All disability insurance contracts providing health care
28 services, delivered or issued for delivery in this state and issued
29 or renewed after January 1, 1998, shall provide benefits for at least
30 the following services and supplies for persons with diabetes:

31 (a) For disability insurance contracts that include pharmacy
32 services, appropriate and medically necessary equipment and supplies,
33 as prescribed by a health care provider, that includes but is not
34 limited to insulin, syringes, injection aids, blood glucose monitors,
35 test strips for blood glucose monitors, visual reading and urine test
36 strips, insulin pumps and accessories to the pumps, insulin infusion
37 devices, prescriptive oral agents for controlling blood sugar levels,
38 foot care appliances for prevention of complications associated with
39 diabetes, and glucagon emergency kits; and

1 (b) For all disability insurance contracts providing health care
2 services, outpatient self-management training and education,
3 including medical nutrition therapy, as ordered by the health care
4 provider. Diabetes outpatient self-management training and education
5 may be provided only by health care providers with expertise in
6 diabetes. Nothing in this section prevents the insurer from
7 restricting patients to seeing only health care providers who have
8 signed participating provider agreements with the insurer or an
9 insuring entity under contract with the insurer.

10 (3) (~~Coverage~~) Except as provided in section 5 of this act,
11 coverage required under this section may be subject to customary
12 cost-sharing provisions established for all other similar services or
13 supplies within a policy.

14 (4) Health care coverage may not be reduced or eliminated due to
15 this section.

16 (5) Services required under this section shall be covered when
17 deemed medically necessary by the medical director, or his or her
18 designee, subject to any referral and formulary requirements.

19 (6) The insurer need not include the coverage required in this
20 section in a group contract offered to an employer or other group
21 that offers to its eligible enrollees a self-insured health plan not
22 subject to mandated benefits status under this title that does not
23 offer coverage similar to that mandated under this section.

24 (7) This section does not apply to the health benefit plan that
25 provides benefits identical to the schedule of services covered by
26 the basic health plan, as required by RCW 48.20.028.

27 **Sec. 8.** RCW 48.21.143 and 2004 c 244 s 10 are each amended to
28 read as follows:

29 The legislature finds that diabetes imposes a significant health
30 risk and tremendous financial burden on the citizens and government
31 of the state of Washington, and that access to the medically accepted
32 standards of care for diabetes, its treatment and supplies, and self-
33 management training and education is crucial to prevent or delay the
34 short and long-term complications of diabetes and its attendant
35 costs.

36 (1) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

1 (a) "Person with diabetes" means a person diagnosed by a health
2 care provider as having insulin using diabetes, noninsulin using
3 diabetes, or elevated blood glucose levels induced by pregnancy; and

4 (b) "Health care provider" means a health care provider as
5 defined in RCW 48.43.005.

6 (2) All group disability insurance contracts and blanket
7 disability insurance contracts providing health care services, issued
8 or renewed after January 1, 1998, shall provide benefits for at least
9 the following services and supplies for persons with diabetes:

10 (a) For group disability insurance contracts and blanket
11 disability insurance contracts that include coverage for pharmacy
12 services, appropriate and medically necessary equipment and supplies,
13 as prescribed by a health care provider, that includes but is not
14 limited to insulin, syringes, injection aids, blood glucose monitors,
15 test strips for blood glucose monitors, visual reading and urine test
16 strips, insulin pumps and accessories to the pumps, insulin infusion
17 devices, prescriptive oral agents for controlling blood sugar levels,
18 foot care appliances for prevention of complications associated with
19 diabetes, and glucagon emergency kits; and

20 (b) For all group disability insurance contracts and blanket
21 disability insurance contracts providing health care services,
22 outpatient self-management training and education, including medical
23 nutrition therapy, as ordered by the health care provider. Diabetes
24 outpatient self-management training and education may be provided
25 only by health care providers with expertise in diabetes. Nothing in
26 this section prevents the insurer from restricting patients to seeing
27 only health care providers who have signed participating provider
28 agreements with the insurer or an insuring entity under contract with
29 the insurer.

30 (3) (~~Coverage~~) Except as provided in section 5 of this act,
31 coverage required under this section may be subject to customary
32 cost-sharing provisions established for all other similar services or
33 supplies within a policy.

34 (4) Health care coverage may not be reduced or eliminated due to
35 this section.

36 (5) Services required under this section shall be covered when
37 deemed medically necessary by the medical director, or his or her
38 designee, subject to any referral and formulary requirements.

39 (6) The insurer need not include the coverage required in this
40 section in a group contract offered to an employer or other group

1 that offers to its eligible enrollees a self-insured health plan not
2 subject to mandated benefits status under this title that does not
3 offer coverage similar to that mandated under this section.

4 (7) This section does not apply to the health benefit plan that
5 provides benefits identical to the schedule of services covered by
6 the basic health plan.

7 **Sec. 9.** RCW 48.44.315 and 2004 c 244 s 12 are each amended to
8 read as follows:

9 The legislature finds that diabetes imposes a significant health
10 risk and tremendous financial burden on the citizens and government
11 of the state of Washington, and that access to the medically accepted
12 standards of care for diabetes, its treatment and supplies, and self-
13 management training and education is crucial to prevent or delay the
14 short and long-term complications of diabetes and its attendant
15 costs.

16 (1) The definitions in this subsection apply throughout this
17 section unless the context clearly requires otherwise.

18 (a) "Person with diabetes" means a person diagnosed by a health
19 care provider as having insulin using diabetes, noninsulin using
20 diabetes, or elevated blood glucose levels induced by pregnancy; and

21 (b) "Health care provider" means a health care provider as
22 defined in RCW 48.43.005.

23 (2) All health benefit plans offered by health care service
24 contractors, issued or renewed after January 1, 1998, shall provide
25 benefits for at least the following services and supplies for persons
26 with diabetes:

27 (a) For health benefit plans that include coverage for pharmacy
28 services, appropriate and medically necessary equipment and supplies,
29 as prescribed by a health care provider, that includes but is not
30 limited to insulin, syringes, injection aids, blood glucose monitors,
31 test strips for blood glucose monitors, visual reading and urine test
32 strips, insulin pumps and accessories to the pumps, insulin infusion
33 devices, prescriptive oral agents for controlling blood sugar levels,
34 foot care appliances for prevention of complications associated with
35 diabetes, and glucagon emergency kits; and

36 (b) For all health benefit plans, outpatient self-management
37 training and education, including medical nutrition therapy, as
38 ordered by the health care provider. Diabetes outpatient self-
39 management training and education may be provided only by health care

1 providers with expertise in diabetes. Nothing in this section
2 prevents the health care services contractor from restricting
3 patients to seeing only health care providers who have signed
4 participating provider agreements with the health care services
5 contractor or an insuring entity under contract with the health care
6 services contractor.

7 (3) (~~Coverage~~) Except as provided in section 5 of this act,
8 coverage required under this section may be subject to customary
9 cost-sharing provisions established for all other similar services or
10 supplies within a policy.

11 (4) Health care coverage may not be reduced or eliminated due to
12 this section.

13 (5) Services required under this section shall be covered when
14 deemed medically necessary by the medical director, or his or her
15 designee, subject to any referral and formulary requirements.

16 (6) The health care service contractor need not include the
17 coverage required in this section in a group contract offered to an
18 employer or other group that offers to its eligible enrollees a self-
19 insured health plan not subject to mandated benefits status under
20 this title that does not offer coverage similar to that mandated
21 under this section.

22 (7) This section does not apply to the health benefit plans that
23 provide benefits identical to the schedule of services covered by the
24 basic health plan.

25 **Sec. 10.** RCW 48.46.272 and 2004 c 244 s 14 are each amended to
26 read as follows:

27 The legislature finds that diabetes imposes a significant health
28 risk and tremendous financial burden on the citizens and government
29 of the state of Washington, and that access to the medically accepted
30 standards of care for diabetes, its treatment and supplies, and self-
31 management training and education is crucial to prevent or delay the
32 short and long-term complications of diabetes and its attendant
33 costs.

34 (1) The definitions in this subsection apply throughout this
35 section unless the context clearly requires otherwise.

36 (a) "Person with diabetes" means a person diagnosed by a health
37 care provider as having insulin using diabetes, noninsulin using
38 diabetes, or elevated blood glucose levels induced by pregnancy; and

1 (b) "Health care provider" means a health care provider as
2 defined in RCW 48.43.005.

3 (2) All health benefit plans offered by health maintenance
4 organizations, issued or renewed after January 1, 1998, shall provide
5 benefits for at least the following services and supplies for persons
6 with diabetes:

7 (a) For health benefit plans that include coverage for pharmacy
8 services, appropriate and medically necessary equipment and supplies,
9 as prescribed by a health care provider, that includes but is not
10 limited to insulin, syringes, injection aids, blood glucose monitors,
11 test strips for blood glucose monitors, visual reading and urine test
12 strips, insulin pumps and accessories to the pumps, insulin infusion
13 devices, prescriptive oral agents for controlling blood sugar levels,
14 foot care appliances for prevention of complications associated with
15 diabetes, and glucagon emergency kits; and

16 (b) For all health benefit plans, outpatient self-management
17 training and education, including medical nutrition therapy, as
18 ordered by the health care provider. Diabetes outpatient self-
19 management training and education may be provided only by health care
20 providers with expertise in diabetes. Nothing in this section
21 prevents the health maintenance organization from restricting
22 patients to seeing only health care providers who have signed
23 participating provider agreements with the health maintenance
24 organization or an insuring entity under contract with the health
25 maintenance organization.

26 (3) (~~Coverage~~) Except as provided in section 5 of this act,
27 coverage required under this section may be subject to customary
28 cost-sharing provisions established for all other similar services or
29 supplies within a policy.

30 (4) Health care coverage may not be reduced or eliminated due to
31 this section.

32 (5) Services required under this section shall be covered when
33 deemed medically necessary by the medical director, or his or her
34 designee, subject to any referral and formulary requirements.

35 (6) The health maintenance organization need not include the
36 coverage required in this section in a group contract offered to an
37 employer or other group that offers to its eligible enrollees a self-
38 insured health plan not subject to mandated benefits status under
39 this title that does not offer coverage similar to that mandated
40 under this section.

1 (7) This section does not apply to the health benefit plans that
2 provide benefits identical to the schedule of services covered by the
3 basic health plan."

E2SHB 2662 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 03/06/2020

4 On page 1, line 1 of the title, after "insulin;" strike the
5 remainder of the title and insert "amending RCW 70.14.060, 48.20.391,
6 48.21.143, 48.44.315, and 48.46.272; adding new sections to chapter
7 70.14 RCW; adding a new section to chapter 48.43 RCW; adding a new
8 section to chapter 41.05 RCW; creating a new section; and providing
9 expiration dates."

EFFECT: Adds a member to the work group from a diabetes patient
advocacy group who also lives with diabetes.

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