HOUSE BILL REPORT
E2SHB 2662

As Passed House:
February 19, 2020

Title: An act relating to reducing the total cost of insulin.

Brief Description: Reducing the total cost of insulin.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Maycumber, Cody, DeBolt, Tharinger, Chopp, Harris, Macri, Thai, Chambers, Caldier, Duerr, Hudgins, Chapman, Steele, Gildon, Eslick, Robinson, Irwin, Lekanoff, Senn, Doglio, Gregerson, Peterson, Goodman, Leavitt, Frame, Pollet, Riccelli, Volz, Davis and Kloba).

Brief History:

Committee Activity:

Health Care & Wellness: 1/28/20, 2/5/20 [DPS];

Appropriations: 2/10/20, 2/11/20 [DP2S(w/o sub HCW)].

Floor Activity:

Passed House: 2/19/20, 97-1.

Brief Summary of Engrossed Second Substitute Bill

- Establishes the Total Cost of Insulin Work Group.
- Caps the total out-of-pocket cost for a 30-day supply of insulin at $100 for two years.
- Allows the Health Care Authority to become, or designate a state agency to become, a licensed drug wholesaler or registered pharmacy benefit manager, or purchase prescription drugs on behalf of the state directly from other states or in coordination with other states under certain circumstances.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kim Weidenaar (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 29 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Tarleton, Tharinger and Ybarra.

Minority Report: Do not pass. Signed by 3 members: Representatives Rude, Assistant Ranking Minority Member; Kraft and Sutherland.

Staff: Meghan Morris (786-7119).

Background:

Prescription Drug Purchasing Consortium.
In 2005 the Legislature directed the Health Care Authority (HCA) to establish a prescription drug purchasing consortium. In addition to state agencies, the consortium may include, on a voluntary basis, local government, private entities, labor organizations, and individuals without insurance, or who are underinsured for prescription drug coverage. State purchased health care services purchased through health carriers and health maintenance organizations are exempted from participating in the consortium. In 2006 Washington and Oregon formed the Northwest Prescription Drug Consortium (Northwest Consortium) to expand their purchasing power. The Northwest Consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

State Agency Work on Prescription Drug Costs.
In 2016 the Department of Health convened a task force to evaluate factors contributing to out-of-pocket costs for patients, including prescription drug cost trends. The same year, the HCA and the Office of Financial Management prepared a report on prescription drug costs and potential purchasing strategies. The report describes increases in state agency spending on prescription drugs in recent years, current cost drivers, strategies to slow the rate of prescription drug spending, and policy options.

According to data from the All-Payer Claims Database (APCD), in 2018 approximately 90,000 Washington residents filled 771,000 prescriptions for insulin, which represents a 15 percent increase since 2014. This number does not include Veteran's Administration plans and some self-insured plans not captured by the APCD.

Summary of Engrossed Second Substitute Bill:

The Total Cost of Insulin Work Group (Work Group) is established. The Work Group must consist of the Insurance Commissioner or designee and representatives from the following organizations appointed by the Governor:

- the Prescription Drug Purchasing Consortium (Consortium);
- the Pharmacy Quality Assurance Commission;
- an association representing independent pharmacies;
- an association representing chain pharmacies;
- each health carrier offering at least one health plan in the commercial market in the state;
- each health carrier offering at least one health plan to state or public school employees in the state;
- an association representing health carriers;
- the Public Employees' Benefits Board or the School Employees' Benefit Board;
- the HCA;
- a pharmacy benefit manager that contracts with state purchasers;
- a drug distributor or wholesaler that distributes or sells insulin in the state;
- a state agency that purchases health care services and drugs for a selected population; and
- the Attorney General's Office.

The Work Group must review and design strategies to reduce the cost of and total expenditures on insulin, including considering the following strategies: a state agency becoming a licensed drug wholesaler, a state agency becoming a registered pharmacy benefit manager, and a state agency purchasing prescription drugs on behalf of the state directly from other states or in coordination with other states. The Work Group must submit a preliminary report by December 1, 2020, and a final report by July 1, 2021, to the Governor and Legislature detailing the strategies. The Work Group expires December 1, 2022.

To the extent permitted under current law, the HCA and the Consortium may begin implementation of the strategies without further legislative direction. In order to implement recommended strategies, the HCA may also become or designate a state agency to become a licensed drug wholesaler or registered pharmacy benefit manager, or purchase prescription drugs on behalf of the state directly from other states or in coordination with other states.

Health carriers and state purchased health care services purchased from or through health carriers may participate in the Consortium.

Health plans, including health plans offered to public employees and their dependents, issued or renewed on or after January 1, 2021, must cap the total amount that an enrollee is required to pay for a 30-day supply of insulin at $100. Prescription insulin drugs must be covered without being subject to a deductible, and any cost sharing paid by an enrollee must be applied toward the enrollee's deductible obligation. The cap expires on January 1, 2023. High deductible health plans will be exempt from the cost-sharing cap in the event federal guidance changes concerning insulin as a preventative care.

The HCA must monitor the wholesale acquisition cost of insulin products sold in Washington.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) The cost of insulin has increased 500 percent in the last decade. Insulin is necessary to keep Type 1 and 2 diabetics alive and they cannot go without it. Parents should not have to worry about being able to afford a month's prescription of insulin to keep their child alive. A bill like this can really make a difference with the high barrier cost has become and how difficult it is for patients. Insulin prices are out of reach for many who need these drugs.

Washingtonians are facing a crisis in affording prescription drugs. People should not be forced to choose between paying for food and other critical essentials or needed prescription drugs. In 2017 33 percent of residents said they stopped taking a prescription drug due to cost. Three companies hold over 90 percent of the world's insulin and are making billions in profits off consumers and taxpayers.

Insulin was discovered in 1922 and the researchers charged only $1 to keep the drug in the public arena and keep the cost as low as possible. Nearly 100 years later, this bill continues in that same spirit. It is in the public good for medicines to be available at reasonable prices and affordable to all those who need it.

The Work Group is heavily weighted to insurers. The Work Group does not include anyone with diabetes, their family members, or legislators. The language of the bill should also be flexible enough to allow for the purchase of drugs through the Vaccine Association.

Washington has done a lot to try and save money and lower costs on prescription drugs. It has created associations with evidence-based medical groups, created the Long-Term Care Trust, passed drug price transparency legislation, and created the Universal Care Work Group. Washington is in a good position to control the rocketing cost of insulin and this bill establishes the groundwork.

(Opposed) None.

(Other) This bill takes a more thoughtful approach to the issue compared to other bills and other markets. The ever-rising prices of insulin are concerning. Health plans have competing interests in making sure that enrollees have access to the care they need while keeping the costs of insurance low. There are fundamental concerns on capping cost sharing on any treatment or medication because that may create an incentive for manufacturers to raise prices, since the manufacturers know the increases will be spread across the market and raise health care costs for everyone. Certain groups appreciate the hard look at the true drivers of cost and that the cap sunrises in two years. Some would like the language around

health savings accounts to be modified to ensure that these taxpayers would not be penalized by the Internal Revenue Service. The Senate amendment seems to take care of this concern.

Staff Summary of Public Testimony (Appropriations):

(In support) Insulin should be, but is not, affordable. The price of insulin can be upwards of $300 per month. The fiscal note clearly identifies the importance of purchasing power. Kaiser Permanente of Washington provided data regarding the cost of public-employee benefit plans and, according to that information, their bulk purchasing and organizational power lowers the cost of a 30-day supply of insulin to a range of $30 for formulary insulin to $79 for non-formulary insulin. This bill allows for central purchasing that will benefit everybody in need of this valuable drug. This is not a lifestyle drug or something that is optional. This is a drug that saves lives and will save money for Washington taxpayers. There will be cost savings for those who are impacted and for employers with workers that cannot work effectively or cannot get a job because of diabetes.

(Opposed) None.

(Other) This is very important to consumers. An issue that came up on a similar bill in the Senate was the question of what happens if the price of insulin goes up within the plan year. A proposed solution to address that is for every $100 increase in the price of the insulin, the bill could allow the plans to raise the co-pay or charge on the insulin by $5.

Persons Testifying (Health Care & Wellness): (In support) Representative Maycumber, prime sponsor; Ronnie Shure, Marcia Stedman, and Cindi Laws, Health Care for All Washington; and Joanna Grist, AARP.

(Other) Chris Bandoli, Association of Washington Healthcare Plans.

Persons Testifying (Appropriations): (In support) Cindi Laws, Health Care for All Washington.

(Other) Lonnie Johns-Brown, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.