

HOUSE BILL No. 2347

By Committee on Health and Human Services

2-8

1 AN ACT concerning health and healthcare; relating to prescription drugs;
2 insulin drugs and devices for the management of diabetes; providing
3 price limitations and requirements therefor under health insurance
4 plans; establishing the insulin affordability program for the uninsured
5 and procedures to acquire emergency insulin supplies.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) Every individual or group health insurance policy,
9 medical service plan, contract, hospital service corporation contract,
10 hospital and medical service corporation contract, fraternal benefit society
11 or health maintenance organization that provides coverage for accident and
12 health services and that is delivered, issued for delivery, amended or
13 renewed on or after January 1, 2024, shall provide coverage for
14 prescription insulin drugs in accordance with this section.

15 (b) All coverage for accident and health services described in
16 subsection (a) shall limit the total amount that a covered person is required
17 to pay for a 30-day supply for:

18 (1) All covered prescription insulin drugs, including any amount or
19 type of insulin needed to fill the covered person's prescription and any
20 number of prescriptions filled, to an amount not to exceed \$35; and

21 (2) all devices, to an amount not to exceed \$100.

22 (c) All coverage for accident and health services described in
23 subsection (a) shall cover:

24 (1) At least one type of prescription insulin drug in each of the
25 following categories:

26 (A) Rapid acting;

27 (B) ultra rapid acting;

28 (C) short acting;

29 (D) intermediate acting;

30 (E) long acting;

31 (F) pre-mixed insulin products;

32 (G) pre-mixed insulin/GLP-1 RA products; and

33 (H) concentrated human regular insulin; and

34 (2) diabetes self-management education to ensure that persons with
35 diabetes are educated on the proper self-management and treatment of
36 diabetes, including, but not limited to, information on proper diets,

1 provided by a healthcare provider who has been appropriately trained as
2 specified in rules and regulations adopted by the secretary of health and
3 environment.

4 (d) Any provider of coverage for accident and health services
5 described in subsection (a) shall provide an appeals process for covered
6 persons who are not able to take one or more of the prescription insulin
7 drugs described in subsection (c)(1). Such appeals process shall be
8 provided in writing and shall provide covered persons and the covered
9 person's healthcare providers a meaningful opportunity to participate in the
10 appeals process.

11 (e) (1) The commissioner of insurance shall adopt rules and
12 regulations as necessary to implement this section.

13 (2) The secretary of health and environment shall adopt rules and
14 regulations to establish training requirements for healthcare providers
15 providing diabetes self-management education required to be covered
16 under subsection (c)(2).

17 (f) (1) No contract between a provider of coverage for accident and
18 health services described in subsection (a) and a pharmacy benefits
19 manager, as defined in K.S.A. 40-3822, and amendments thereto, shall
20 contain any provision that allows any charge, collection or other required
21 payment that exceeds the limitations provided in subsection (b).

22 (2) A pharmacy benefits manager, provider of coverage for accident
23 and health services described in subsection (a) or any other third party that
24 reimburses a pharmacy for drugs or services shall not reimburse a
25 pharmacy at a lower rate or assess any fee, charge-back or adjustment
26 upon a pharmacy on the basis that a covered person's cost-sharing
27 requirements are being affected.

28 (g) As used in this section:

29 (1) "Device" means a blood glucose test strip, glucometer, continuous
30 glucose monitor and transmitter, lancet, lancing device or insulin syringe
31 used to cure, diagnose, mitigate, prevent or treat diabetes or low blood
32 sugar. "Device" does not include an insulin pump.

33 (2) "Prescription insulin drug" means a prescription drug that
34 contains insulin and is used to treat diabetes.

35 Sec. 2. (a) On and after January 1, 2024, there is created the insulin
36 affordability program for the uninsured. Prior to January 1, 2024, each
37 manufacturer shall establish procedures to make insulin available to
38 eligible individuals in accordance with this section.

39 (b) To be eligible to receive insulin under the program, an individual
40 shall:

41 (1) Be a resident of Kansas;

42 (2) not be eligible for or enrolled in medical assistance or the federal
43 health insurance for the aged act, 42 U.S.C. § 1395 et seq.;

1 (3) have a valid prescription order for insulin; and

2 (4) not be enrolled in coverage for accident and health services
3 subject to the requirements of section 1, and amendments thereto. An
4 individual enrolled in short-term coverage, a healthcare sharing ministry or
5 self-insured coverage shall not be excluded from eligibility under this
6 paragraph.

7 (c) The commissioner of insurance shall develop an application form
8 to be used by an individual who is seeking insulin under the program and
9 make such form available on the insurance department's website and to
10 pharmacies, healthcare providers and healthcare facilities that prescribe or
11 dispense insulin.

12 (d) (1) To acquire insulin through the program, an individual shall
13 present to a pharmacy a completed, signed and dated application form with
14 proof of the individual's Kansas residency. If the individual is younger
15 than 18 years of age, the individual's parent or legal guardian may provide
16 such proof of residency.

17 (2) Upon receipt of an application form meeting the requirements of
18 paragraph (1) and demonstrating eligibility pursuant to subsection (b), a
19 pharmacist shall dispense the prescribed insulin in an amount that will
20 provide the individual with a 30-day supply of insulin.

21 (3) An individual may receive 30-day supplies of insulin for up to 12
22 months per valid application and may reapply for additional 12-month
23 periods.

24 (e) (1) A pharmacist dispensing insulin pursuant to subsection (d)
25 may inform the individual that the individual may be eligible for medical
26 assistance or an affordable insurance product on the state-based
27 marketplace.

28 (2) A pharmacist shall retain a copy of any application form provided
29 by an individual pursuant to this section for two years after the date the
30 insulin was initially dispensed.

31 (3) A pharmacy dispensing insulin pursuant to this section may
32 collect a one-time fee from the individual in an amount not to exceed \$15.

33 (f) (1) Except as provided in paragraph (4), unless the manufacturer
34 agrees to send the pharmacy a replacement supply of insulin dispensed in
35 the amount provided through the program, the pharmacy may submit to
36 the manufacturer an electronic claim for payment that is made in
37 accordance with the national council for prescription drug programs'
38 standards for electronic claims processing, or other substantially
39 equivalent standards determined by the commissioner of insurance.

40 (2) Prior to January 1, 2024, each manufacturer shall develop a
41 process for a pharmacy to submit an electronic claim for reimbursement as
42 provided in paragraph (1).

43 (3) If a pharmacy submits an electronic claim to a manufacturer

1 pursuant to this subsection, within 30 calendar days after receipt of the
2 claim, the manufacturer shall reimburse the pharmacy in an amount, or
3 send the pharmacy a replacement supply of the same insulin in an equal or
4 greater amount, that covers the difference between the pharmacy's
5 wholesale acquisition cost for the insulin dispensed through the program
6 and the amount that the individual paid for the insulin pursuant to
7 subsection (e)(3).

8 (4) A pharmacy shall not submit a claim for payment for insulin with
9 a wholesale acquisition cost of \$8 or less per milliliter, adjusted annually
10 based on the annual percentage change in the consumer price index as
11 determined by the commissioner of insurance.

12 (g) The commissioner of insurance may promote the availability of
13 the program to Kansans. Promotional material provided by the
14 commissioner may include information regarding each manufacturer's
15 consumer insulin programs. The insurance department may accept gifts,
16 grants and donations to meet the requirements of this subsection.

17 (h) The commissioner of insurance may impose a fine of \$10,000
18 upon a manufacturer that fails to comply with the requirements of this
19 section for each month of noncompliance.

20 (i) The commissioner of insurance shall adopt rules and regulations
21 as necessary to implement this section.

22 (j) As used in this section:

23 (1) "Consumer price index" means the consumer price index for all
24 urban consumers in the midwest region published by the United States
25 department of labor, bureau of labor statistics.

26 (2) "Manufacturer" means an entity:

27 (A) Engaged in the manufacture of insulin that is self-administered on
28 an outpatient basis and is available for purchase by residents of this state;
29 and

30 (B) that has an annual gross revenue of more than \$2,000,000 from
31 the sale of insulin in this state.

32 (3) "Pharmacist" and "pharmacy" mean the same as defined in K.S.A.
33 65-1626, and amendments thereto.

34 (4) "Wholesale acquisition cost" means a manufacturer's list price for
35 insulin to wholesalers or direct purchasers in the United States for the most
36 recent month for which the information is reported in wholesale price
37 guides or other publications of drug or biological pricing data. "Wholesale
38 acquisition cost" does not include prompt pay or other discounts, rebates
39 or reductions in price.

40 Sec. 3. (a) (1) On and after January 1, 2024, an individual may
41 acquire from a pharmacy one emergency 30-day supply of prescription
42 insulin drugs within a 12-month period. The pharmacy may charge the
43 individual an amount not to exceed \$35 for such 30-day supply.

1 (2) Each manufacturer shall establish procedures to make insulin
2 available in accordance with this section to eligible individuals who need
3 access to an emergency prescription insulin drug supply.

4 (b) To be eligible to receive an emergency prescription insulin drug
5 supply, an individual shall:

6 (1) Be a resident of Kansas;

7 (2) have a valid prescription for insulin;

8 (3) have less than a seven-day supply of insulin available; and

9 (4) be required to pay more than \$100 out of pocket each month for
10 prescribed insulin drugs, whether insured or uninsured.

11 (c) (1) The commissioner of insurance shall create and make
12 available to the public an application form for individuals seeking to
13 acquire an emergency prescription insulin drug supply pursuant to this
14 section. Such application form shall require an individual to provide proof
15 of eligibility under subsection (b).

16 (2) Each pharmacy in this state shall make the application form
17 available at the pharmacy.

18 (d) (1) To acquire an emergency 30-day supply of insulin under this
19 section, an individual shall present to a pharmacy a completed, signed and
20 dated application form with proof of the individual's Kansas residency. If
21 the individual is younger than 18 years of age, the individual's parent or
22 legal guardian may provide such proof of residency.

23 (2) Upon receipt of an application form meeting the requirements of
24 paragraph (1) and demonstrating eligibility pursuant to subsection (b), a
25 pharmacist shall dispense the prescribed insulin in an amount that will
26 provide the individual with a 30-day supply.

27 (e) (1) A pharmacist shall retain a copy of any application form
28 provided by an individual pursuant to this section for two years after the
29 date the insulin was initially dispensed.

30 (2) A pharmacy dispensing insulin pursuant to this section may
31 collect a copayment from the individual to cover the pharmacy's costs of
32 processing and dispensing the insulin in an amount not to exceed \$35 for
33 the emergency 30-day supply of insulin.

34 (f) (1) Except as provided in paragraph (4), unless the manufacturer
35 agrees to send the pharmacy a replacement supply of insulin dispensed in
36 the amount provided through the program, the pharmacy may submit to
37 the manufacturer an electronic claim for payment that is made in
38 accordance with the national council for prescription drug programs'
39 standards for electronic claims processing, or other substantially
40 equivalent standards determined by the commissioner of insurance.

41 (2) Prior to January 1, 2024, each manufacturer shall develop a
42 process for a pharmacy to submit an electronic claim for reimbursement as
43 provided in paragraph (1).

1 (3) If a pharmacy submits an electronic claim to a manufacturer
2 pursuant to this subsection, within 30 calendar days after receipt of the
3 claim, the manufacturer shall reimburse the pharmacy in an amount, or
4 send the pharmacy a replacement supply of the same insulin in an equal or
5 greater amount, that covers the difference between the pharmacy's
6 wholesale acquisition cost for the insulin dispensed through the program
7 and the amount that the individual paid for the insulin pursuant to
8 subsection (e)(3).

9 (4) A pharmacy shall not submit a claim for payment for insulin with
10 a wholesale acquisition cost of \$8 or less per milliliter, adjusted annually
11 based on the annual percentage change in the consumer price index as
12 determined by the commissioner of insurance.

13 (g) The commissioner of insurance shall promote the availability of
14 emergency insulin under this section to Kansans. Promotional material
15 provided by the commissioner shall include information regarding each
16 manufacturer's consumer insulin programs. The insurance department may
17 accept gifts, grants and donations to meet the requirements of this
18 subsection.

19 (h) The commissioner of insurance may impose a fine of \$10,000
20 upon a manufacturer that fails to comply with the requirements of this
21 section for each month of noncompliance.

22 (i) The commissioner of insurance shall adopt rules and regulations
23 as necessary to implement this section.

24 (j) As used in this section, "consumer price index," "manufacturer,"
25 "pharmacist," "pharmacy" and "wholesale acquisition cost" mean the same
26 as defined in section 2, and amendments thereto.

27 Sec. 4. This act shall take effect and be in force from and after its
28 publication in the statute book.