

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2140
(Senators Mathern, Dever)
(Representatives Hanson, McLeod, Pyle, Schauer)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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;
 - (4) Long-acting insulin;
 - (5) Premixed insulin product;
 - (6) Premixed insulin/GLP-1 RA product; and
 - (7) Concentrated human regular insulin.
 - b. "Medical supplies for insulin dosing and administration" means supplies needed for proper insulin dosing, as well as supplies needed to detect or address medical emergencies in an individual using insulin to manage 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:

- (1) Blood glucose meters;
 - (2) Blood glucose test strips;
 - (3) Lancing devices and lancets;
 - (4) Ketone testing supplies, such as urine strips, blood ketone meters, and blood ketone strips;
 - (5) Glucagon, in injectable and nasal forms;
 - (6) Insulin pen needles; and
 - (7) Insulin syringes.
- c. "Pharmacy or distributor" means a pharmacy or medical supply company, or other medication or medical supply distributor filling a covered individual's prescriptions.
2. The board shall provide health insurance benefits coverage that provides for insulin drug and medical supplies for insulin dosing and administration which complies with this section.
 3. The coverage must limit out-of-pocket costs for a thirty-day supply of:
 - a. Covered insulin drugs which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or type of insulin drug used to fill the covered individual's prescription needs.
 - b. Covered medical supplies for insulin dosing and administration, the total of which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or manufacturer of supplies used to fill the covered individual's prescription needs.
 4. The coverage may not allow a pharmacy benefits manager or the pharmacy or distributor to charge, require the pharmacy or distributor to collect, or require a covered individual to make a payment for a covered insulin drug or medical supplies for insulin dosing and administration in an amount that exceeds the out-of-pocket limits set forth under subsection 3.
 5. The coverage may not impose a deductible, copayment, coinsurance, or other cost-sharing requirement that causes out-of-pocket costs for prescribed insulin or medical supplies for insulin dosing and administration to exceed the amount set forth under subsection 3.
 6. Subsection 3 does not require the coverage to implement a particular cost-sharing structure and does not prevent the limitation of out-of-pocket costs to less than the amount specified under subsection 3. Subsection 3 does not limit out-of-pocket costs on an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor. This section does not limit whether coverage classifies an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor as a drug or as a medical device or supply.

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

SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM - INSULIN DRUG AND SUPPLIES BENEFITS - REPORT. Pursuant to section 54-03-28, the public employees retirement system shall prepare and submit for introduction a bill to the sixty-ninth legislative assembly to repeal the expiration date for this Act and to extend the coverage of insulin drug and supplies benefits to all group and individual health insurance policies. The public employees retirement system shall append a report to the bill regarding the effect of the insulin drug and supplies benefits requirement on the system's health

insurance programs, information on the utilization and costs relating to the coverage, and a recommendation regarding whether the coverage should be continued.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2140.

Senate Vote: Yeas 38 Nays 6 Absent 3

House Vote: Yeas 57 Nays 33 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State