

118TH CONGRESS  
1ST SESSION

# H. R. 1587

To provide for appropriate cost-sharing for individuals 26 years of age or younger for insulin products covered under private health plans and Medicaid.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2023

Mr. LANDSMAN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for appropriate cost-sharing for individuals 26 years of age or younger for insulin products covered under private health plans and Medicaid.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Making Insulin Afford-  
5 able for All Children Act”.

1 **SEC. 2. APPROPRIATE COST-SHARING FOR INDIVIDUALS 26**  
2 **YEARS OF AGE OR YOUNGER FOR INSULIN**  
3 **PRODUCTS COVERED UNDER PRIVATE**  
4 **HEALTH PLANS AND MEDICAID.**

5 (a) PRIVATE HEALTH PLANS.—

6 (1) IN GENERAL.—Part D of title XXVII of the  
7 Public Health Service Act (42 U.S.C. 300gg–111 et  
8 seq.) is amended by adding at the end the following:

9 **“SEC. 2799A–11. REQUIREMENTS WITH RESPECT TO COST-**  
10 **SHARING FOR CERTAIN INSULIN PRODUCTS.**

11 “(a) IN GENERAL.—For plan years beginning on or  
12 after January 1, 2024, a group health plan or health in-  
13 surance issuer offering group or individual health insur-  
14 ance coverage shall, with respect to enrolled individuals  
15 26 years of age or younger, provide coverage of selected  
16 insulin products, and with respect to such products, shall  
17 not—

18 “(1) apply any deductible; or

19 “(2) impose any cost-sharing in excess of the  
20 lesser of, per 30-day supply—

21 “(A) \$35; or

22 “(B) the amount equal to 25 percent of  
23 the negotiated price of the selected insulin prod-  
24 uct net of all price concessions received by or on  
25 behalf of the plan or coverage, including price  
26 concessions received by or on behalf of third-

1 party entities providing services to the plan or  
2 coverage, such as pharmacy benefit manage-  
3 ment services.

4 “(b) DEFINITIONS.—In this section:

5 “(1) SELECTED INSULIN PRODUCTS.—The term  
6 ‘selected insulin products’ means at least one of each  
7 dosage form (such as vial, pump, or inhaler dosage  
8 forms) of each different type (such as rapid-acting,  
9 short-acting, intermediate-acting, long-acting, ultra  
10 long-acting, and premixed) of insulin (as defined  
11 below), when available, as selected by the group  
12 health plan or health insurance issuer.

13 “(2) INSULIN DEFINED.—The term ‘insulin’  
14 means insulin that is licensed under subsection (a)  
15 or (k) of section 351 and continues to be marketed  
16 under such section, including any insulin product  
17 that has been deemed to be licensed under section  
18 351(a) pursuant to section 7002(e)(4) of the Bio-  
19 logics Price Competition and Innovation Act of 2009  
20 and continues to be marketed pursuant to such li-  
21 censure.

22 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
23 this section requires a plan or issuer that has a network  
24 of providers to provide benefits for selected insulin prod-  
25 ucts described in this section that are delivered by an out-

1 of-network provider, or precludes a plan or issuer that has  
2 a network of providers from imposing higher cost-sharing  
3 than the levels specified in subsection (a) for selected insu-  
4 lin products described in this section that are delivered  
5 by an out-of-network provider.

6 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
7 not be construed to require coverage of, or prevent a group  
8 health plan or health insurance coverage from imposing  
9 cost-sharing other than the levels specified in subsection  
10 (a) on, insulin products that are not selected insulin prod-  
11 ucts or insulin products for an individual not described  
12 in subsection (a), to the extent that such coverage is not  
13 otherwise required and such cost-sharing is otherwise per-  
14 mitted under Federal and applicable State law.

15 “(e) APPLICATION OF COST-SHARING TOWARDS  
16 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
17 cost-sharing payments made pursuant to subsection (a)(2)  
18 shall be counted toward any deductible or out-of-pocket  
19 maximum that applies under the plan or coverage.”.

20 (2) NO EFFECT ON OTHER COST-SHARING.—  
21 Section 1302(d)(2) of the Patient Protection and Af-  
22 fordable Care Act (42 U.S.C. 18022(d)(2)) is  
23 amended by adding at the end the following new  
24 subparagraph:

1           “(D) SPECIAL RULE RELATING TO INSU-  
2           LIN COVERAGE.—The exemption of coverage of  
3           selected insulin products (as defined in section  
4           2799A–11(b) of the Public Health Service Act)  
5           from the application of any deductible pursuant  
6           to section 2799A–11(a)(1) of such Act, section  
7           726(a)(1) of the Employee Retirement Income  
8           Security Act of 1974, or section 9826(a)(1) of  
9           the Internal Revenue Code of 1986 shall not be  
10          considered when determining the actuarial value  
11          of a qualified health plan under this sub-  
12          section.”.

13          (3) COVERAGE OF CERTAIN INSULIN PRODUCTS  
14          UNDER CATASTROPHIC PLANS.—Section 1302(e) of  
15          the Patient Protection and Affordable Care Act (42  
16          U.S.C. 18022(e)) is amended by adding at the end  
17          the following:

18                 “(4) COVERAGE OF CERTAIN INSULIN PROD-  
19                 UCTS.—

20                         “(A) IN GENERAL.—Notwithstanding para-  
21                         graph (1)(B)(i), a health plan described in  
22                         paragraph (1) shall provide coverage of selected  
23                         insulin products, with respect to an enrolled in-  
24                         dividual who is 26 years of age or younger, in  
25                         accordance with section 2799A–11 of the Public

1 Health Service Act, before the enrolled indi-  
2 vidual has incurred, during the plan year, cost-  
3 sharing expenses in an amount equal to the an-  
4 nual limitation in effect under subsection (c)(1)  
5 for the plan year.

6 “(B) TERMINOLOGY.—For purposes of  
7 subparagraph (A)—

8 “(i) the term ‘selected insulin prod-  
9 ucts’ has the meaning given such term in  
10 section 2799A–11(b) of the Public Health  
11 Service Act; and

12 “(ii) the requirements of section  
13 2799A–11 of such Act shall be applied by  
14 deeming each reference in such section to  
15 ‘individual health insurance coverage’ to be  
16 a reference to a plan described in para-  
17 graph (1).”.

18 (4) ERISA.—

19 (A) IN GENERAL.—Subpart B of part 7 of  
20 subtitle B of title I of the Employee Retirement  
21 Income Security Act of 1974 (29 U.S.C. 1185  
22 et seq.) is amended by adding at the end the  
23 following:

1 **“SEC. 726. REQUIREMENTS WITH RESPECT TO COST-SHAR-**  
2 **ING FOR CERTAIN INSULIN PRODUCTS.**

3 “(a) IN GENERAL.—For plan years beginning on or  
4 after January 1, 2024, a group health plan or health in-  
5 surance issuer offering group health insurance coverage  
6 shall, with respect to enrolled individuals 26 years of age  
7 or younger, provide coverage of selected insulin products,  
8 and with respect to such products, shall not—

9 “(1) apply any deductible; or

10 “(2) impose any cost-sharing in excess of the  
11 lesser of, per 30-day supply—

12 “(A) \$35; or

13 “(B) the amount equal to 25 percent of  
14 the negotiated price of the selected insulin prod-  
15 uct net of all price concessions received by or on  
16 behalf of the plan or coverage, including price  
17 concessions received by or on behalf of third-  
18 party entities providing services to the plan or  
19 coverage, such as pharmacy benefit manage-  
20 ment services.

21 “(b) DEFINITIONS.—In this section:

22 “(1) SELECTED INSULIN PRODUCTS.—The term  
23 ‘selected insulin products’ means at least one of each  
24 dosage form (such as vial, pump, or inhaler dosage  
25 forms) of each different type (such as rapid-acting,  
26 short-acting, intermediate-acting, long-acting, ultra

1 long-acting, and premixed) of insulin (as defined  
2 below), when available, as selected by the group  
3 health plan or health insurance issuer.

4 “(2) INSULIN DEFINED.—The term ‘insulin’  
5 means insulin that is licensed under subsection (a)  
6 or (k) of section 351 of the Public Health Service  
7 Act (42 U.S.C. 262) and continues to be marketed  
8 under such section, including any insulin product  
9 that has been deemed to be licensed under section  
10 351(a) of such Act pursuant to section 7002(e)(4)  
11 of the Biologics Price Competition and Innovation  
12 Act of 2009 (Public Law 111–148) and continues to  
13 be marketed pursuant to such licensure.

14 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
15 this section requires a plan or issuer that has a network  
16 of providers to provide benefits for selected insulin prod-  
17 ucts described in this section that are delivered by an out-  
18 of-network provider, or precludes a plan or issuer that has  
19 a network of providers from imposing higher cost-sharing  
20 than the levels specified in subsection (a) for selected insu-  
21 lin products described in this section that are delivered  
22 by an out-of-network provider.

23 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
24 not be construed to require coverage of, or prevent a group  
25 health plan or health insurance coverage from imposing



1 cost-sharing other than the levels specified in subsection  
2 (a) on, insulin products that are not selected insulin prod-  
3 ucts or insulin products for an individual not described  
4 in subsection (a), to the extent that such coverage is not  
5 otherwise required and such cost-sharing is otherwise per-  
6 mitted under Federal and applicable State law.

7 “(e) APPLICATION OF COST-SHARING TOWARDS  
8 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
9 cost-sharing payments made pursuant to subsection (a)(2)  
10 shall be counted toward any deductible or out-of-pocket  
11 maximum that applies under the plan or coverage.”.

12 (B) CLERICAL AMENDMENT.—The table of  
13 contents in section 1 of the Employee Retirement  
14 Income Security Act of 1974 (29 U.S.C.  
15 1001 et seq.) is amended by inserting after the  
16 item relating to section 725 the following:

“Sec. 726. Requirements with respect to cost-sharing for certain insulin prod-  
ucts.”.

17 (5) INTERNAL REVENUE CODE.—

18 (A) IN GENERAL.—Subchapter B of chap-  
19 ter 100 of the Internal Revenue Code of 1986  
20 is amended by adding at the end the following  
21 new section:

1 **“SEC. 9826. REQUIREMENTS WITH RESPECT TO COST-SHAR-**  
2 **ING FOR CERTAIN INSULIN PRODUCTS.**

3 “(a) IN GENERAL.—For plan years beginning on or  
4 after January 1, 2024, a group health plan shall, with re-  
5 spect to enrolled individuals 26 years of age or younger,  
6 provide coverage of selected insulin products, and with re-  
7 spect to such products, shall not—

8 “(1) apply any deductible; or

9 “(2) impose any cost-sharing in excess of the  
10 lesser of, per 30-day supply—

11 “(A) \$35; or

12 “(B) the amount equal to 25 percent of  
13 the negotiated price of the selected insulin prod-  
14 uct net of all price concessions received by or on  
15 behalf of the plan, including price concessions  
16 received by or on behalf of third-party entities  
17 providing services to the plan, such as phar-  
18 macy benefit management services.

19 “(b) DEFINITIONS.—In this section:

20 “(1) SELECTED INSULIN PRODUCTS.—The term  
21 ‘selected insulin products’ means at least one of each  
22 dosage form (such as vial, pump, or inhaler dosage  
23 forms) of each different type (such as rapid-acting,  
24 short-acting, intermediate-acting, long-acting, ultra  
25 long-acting, and premixed) of insulin (as defined

1 below), when available, as selected by the group  
2 health plan.

3 “(2) INSULIN DEFINED.—The term ‘insulin’  
4 means insulin that is licensed under subsection (a)  
5 or (k) of section 351 of the Public Health Service  
6 Act (42 U.S.C. 262) and continues to be marketed  
7 under such section, including any insulin product  
8 that has been deemed to be licensed under section  
9 351(a) of such Act pursuant to section 7002(e)(4)  
10 of the Biologics Price Competition and Innovation  
11 Act of 2009 (Public Law 111–148) and continues to  
12 be marketed pursuant to such licensure.

13 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
14 this section requires a plan that has a network of providers  
15 to provide benefits for selected insulin products described  
16 in this section that are delivered by an out-of-network pro-  
17 vider, or precludes a plan that has a network of providers  
18 from imposing higher cost-sharing than the levels specified  
19 in subsection (a) for selected insulin products described  
20 in this section that are delivered by an out-of-network pro-  
21 vider.

22 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
23 not be construed to require coverage of, or prevent a group  
24 health plan from imposing cost-sharing other than the lev-  
25 els specified in subsection (a) on, insulin products that are

1 not selected insulin products or insulin products for an  
 2 individual not described in subsection (a), to the extent  
 3 that such coverage is not otherwise required and such  
 4 cost-sharing is otherwise permitted under Federal and ap-  
 5 plicable State law.

6 “(e) APPLICATION OF COST-SHARING TOWARDS  
 7 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
 8 cost-sharing payments made pursuant to subsection (a)(2)  
 9 shall be counted toward any deductible or out-of-pocket  
 10 maximum that applies under the plan.”.

11 (B) CLERICAL AMENDMENT.—The table of  
 12 sections for subchapter B of chapter 100 of  
 13 such Code is amended by adding at the end the  
 14 following new item:

“Sec. 9826. Requirements with respect to cost-sharing for certain insulin prod-  
 ucts.”.

15 (6) IMPLEMENTATION.—The Secretary of  
 16 Health and Human Services, the Secretary of Labor,  
 17 and the Secretary of the Treasury may implement  
 18 the provisions of, including the amendments made  
 19 by, this subsection through sub-regulatory guidance,  
 20 program instruction or otherwise.

21 (b) MEDICAID.—Section 1916 of the Social Security  
 22 Act (42 U.S.C. 1396o) is amended—

23 (1) in subsection (a)(3), by inserting before the  
 24 period at the end the following: “; and except that,

1 beginning January 1, 2024, with respect to individ-  
2 uals 26 years of age or younger, in the case of se-  
3 lected insulin products (as defined in subsection (b)  
4 of section 2799A–11 of the Public Health Service  
5 Act), no deductible shall be applied and any cost-  
6 sharing imposed shall not exceed the lesser of, per  
7 30-day supply, the amounts specified under sub-  
8 section (a)(2) of such section”; and

9 (2) in subsection (b)(3), by inserting before the  
10 period at the end the following: “; and except that,  
11 beginning January 1, 2024, with respect to individ-  
12 uals 26 years of age or younger, in the case of se-  
13 lected insulin products (as defined in subsection (b)  
14 of section 2799A–11 of the Public Health Service  
15 Act), no deductible shall be applied and any cost-  
16 sharing imposed shall not exceed the lesser of, per  
17 30-day supply, the amounts specified under sub-  
18 section (a)(2) of such section”.

○