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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2662

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AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By House 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)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to reducing the total cost of insulin; amending  
2 RCW 70.14.060, 48.20.391, 48.21.143, 48.44.315, and 48.46.272; adding  
3 new sections to chapter 70.14 RCW; adding a new section to chapter  
4 48.43 RCW; adding a new section to chapter 41.05 RCW; creating a new  
5 section; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

14 (c) The first insulin patent in the United States was awarded in  
15 1923 and the first synthetic insulin arrived on the market in 1978;  
16 and

17 (d) The price and utilization of insulin has steadily increased,  
18 making it one of the costliest prescription drugs in the state.  
19 According to the Washington all-payer claims database, the allowable  
20 costs before rebates for health carriers in the state have increased  
21 eighty-seven percent since 2014, and per member out-of-pocket costs

1 have increased an average of eighteen percent over the same time  
2 period.

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

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

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

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

13 (b) A representative from the pharmacy quality assurance  
14 commission;

15 (c) A representative from an association representing independent  
16 pharmacies;

17 (d) A representative from an association representing chain  
18 pharmacies;

19 (e) A representative from each health carrier offering at least  
20 one health plan in a commercial market in the state;

21 (f) A representative from each health carrier offering at least  
22 one health plan to state or public school employees in the state;

23 (g) A representative from an association representing health  
24 carriers;

25 (h) A representative from the public employees' benefits board or  
26 the school employees' benefits board;

27 (i) A representative from the health care authority;

28 (j) A representative from a pharmacy benefit manager that  
29 contracts with state purchasers;

30 (k) A representative from a drug distributor or wholesaler that  
31 distributes or sells insulin in the state;

32 (l) A representative from a state agency that purchases health  
33 care services and drugs for a selected population;

34 (m) A representative from the attorney general's office with  
35 expertise in prescription drug purchasing; and

36 (n) A representative from an organization representing diabetes  
37 patients who is living with diabetes.

38 (2) The work group must review and design strategies to reduce  
39 the cost of and total expenditures on insulin in this state.

1 Strategies the work group must consider include, but are not limited  
2 to, a state agency becoming a licensed drug wholesaler, a state  
3 agency becoming a registered pharmacy benefit manager, and a state  
4 agency purchasing prescription drugs on behalf of the state directly  
5 from other states or in coordination with other states.

6 (3) Staff support for the work group shall be provided by the  
7 health care authority.

8 (4) By December 1, 2020, the work group must submit a preliminary  
9 report detailing strategies to reduce the cost of and total  
10 expenditures on insulin for patients, health carriers, payers, and  
11 the state. The work group must submit a final report by July 1, 2021,  
12 to the governor and the legislature. The final report must include  
13 any statutory changes necessary to implement the strategies.

14 (5) This section expires December 1, 2022.

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

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

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

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

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

26 (2) In addition to the authorities granted in subsection (1) of  
27 this section, if the total cost of insulin work group established in  
28 section 2 of this act determines that all or a portion of the  
29 strategies may be implemented without statutory changes, the health  
30 care authority and the prescription drug purchasing consortium  
31 described in RCW 70.14.060 shall begin implementation without further  
32 legislative direction.

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

35 (1) (a) The administrator of the state health care authority  
36 shall, directly or by contract, adopt policies necessary for  
37 establishment of a prescription drug purchasing consortium. The  
38 consortium's purchasing activities shall be based upon the evidence-

1 based prescription drug program established under RCW 70.14.050.  
2 State purchased health care programs as defined in RCW 41.05.011  
3 shall purchase prescription drugs through the consortium for those  
4 prescription drugs that are purchased directly by the state and those  
5 that are purchased through reimbursement of pharmacies, unless  
6 exempted under ~~((this section))~~ (b) of this subsection. The  
7 administrator shall not require any supplemental rebate offered to  
8 the ~~((department of social and health services))~~ health care  
9 authority by a pharmaceutical manufacturer for prescription drugs  
10 purchased for medical assistance program clients under chapter 74.09  
11 RCW be extended to any other state purchased health care program, or  
12 to any other individuals or entities participating in the consortium.  
13 The administrator shall explore joint purchasing opportunities with  
14 other states.

15 (b) State purchased health care programs are exempt from the  
16 requirements of this section if they can demonstrate to the  
17 administrator of the state health care authority that, as a result of  
18 the availability of federal programs or other purchasing  
19 arrangements, their other purchasing mechanisms will result in  
20 greater discounts and aggregate cost savings than would be realized  
21 through participation in the consortium.

22 (2) Participation in the purchasing consortium shall be offered  
23 as an option beginning January 1, 2006. Participation in the  
24 consortium is purely voluntary for units of local government, private  
25 entities, labor organizations, health carriers as provided in RCW  
26 48.43.005, state purchased health care services from or through  
27 health carriers as provided in RCW 48.43.005, and for individuals who  
28 lack or are underinsured for prescription drug coverage. The  
29 administrator may set reasonable fees, including enrollment fees, to  
30 cover administrative costs attributable to participation in the  
31 prescription drug consortium.

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

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

39 ~~((5) State purchased health care programs are exempt from the~~  
40 ~~requirements of this section if they can demonstrate to the~~

1 ~~administrator that, as a result of the availability of federal~~  
2 ~~programs or other purchasing arrangements, their other purchasing~~  
3 ~~mechanisms will result in greater discounts and aggregate cost~~  
4 ~~savings than would be realized through participation in the~~  
5 ~~consortium.))~~

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43  
7 RCW to read as follows:

8 (1) Except as required in subsection (2) of this section, a  
9 health plan issued or renewed on or after January 1, 2021, that  
10 provides coverage for prescription insulin drugs for the treatment of  
11 diabetes must cap the total amount that an enrollee is required to  
12 pay for a covered insulin drug at an amount not to exceed one hundred  
13 dollars per thirty-day supply of the drug. Prescription insulin drugs  
14 must be covered without being subject to a deductible, and any cost  
15 sharing paid by an enrollee must be applied toward the enrollee's  
16 deductible obligation.

17 (2) If the federal internal revenue service removes insulin from  
18 the list of preventive care services which can be covered by a  
19 qualifying health plan for a health savings account before the  
20 deductible is satisfied, for a health plan that provides coverage for  
21 prescription insulin drugs for the treatment of diabetes and is  
22 offered as a qualifying health plan for a health savings account, the  
23 carrier must establish the plan's cost sharing for the coverage of  
24 prescription insulin for diabetes at the minimum level necessary to  
25 preserve the enrollee's ability to claim tax exempt contributions  
26 from his or her health savings account under internal revenue service  
27 laws and regulations. The office of the insurance commissioner must  
28 provide written notice of the change in internal revenue service  
29 guidance to affected parties, the chief clerk of the house of  
30 representatives, the secretary of the senate, the office of the code  
31 reviser, and others as deemed appropriate by the office.

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

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

35 (1) Except as required in subsection (2) of this section, a  
36 health plan offered to public employees and their covered dependents  
37 under this chapter that is issued or renewed by the board on or after  
38 January 1, 2021, that provides coverage for prescription insulin

1 drugs for the treatment of diabetes must cap the total amount that an  
2 enrollee is required to pay for a covered insulin drug at an amount  
3 not to exceed one hundred dollars per thirty-day supply of the drug.  
4 Prescription insulin drugs must be covered without being subject to a  
5 deductible, and any cost sharing paid by an enrollee must be applied  
6 toward the enrollee's deductible obligation.

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

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

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

25 **Sec. 7.** RCW 48.20.391 and 1997 c 276 s 2 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 disability insurance contracts providing health care  
4 services, delivered or issued for delivery in this state and issued  
5 or renewed after January 1, 1998, shall provide benefits for at least  
6 the following services and supplies for persons with diabetes:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) For all group disability insurance contracts and blanket  
35 disability insurance contracts providing health care services,  
36 outpatient self-management training and education, including medical  
37 nutrition therapy, as ordered by the health care provider. Diabetes  
38 outpatient self-management training and education may be provided  
39 only by health care providers with expertise in diabetes. Nothing in



1 this section prevents the insurer from restricting patients to seeing  
2 only health care providers who have signed participating provider  
3 agreements with the insurer or an insuring entity under contract with  
4 the insurer.

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

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

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

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

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

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

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

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

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

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

38 (2) All health benefit plans offered by health care service  
39 contractors, issued or renewed after January 1, 1998, shall provide

1 benefits for at least the following services and supplies for persons  
2 with diabetes:

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

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

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

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

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

31 (6) The health care service contractor need not include the  
32 coverage required in this section in a group contract offered to an  
33 employer or other group that offers to its eligible enrollees a self-  
34 insured health plan not subject to mandated benefits status under  
35 this title that does not offer coverage similar to that mandated  
36 under this section.

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

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

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

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

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

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

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

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

30       (b) For all health benefit plans, outpatient self-management  
31 training and education, including medical nutrition therapy, as  
32 ordered by the health care provider. Diabetes outpatient self-  
33 management training and education may be provided only by health care  
34 providers with expertise in diabetes. Nothing in this section  
35 prevents the health maintenance organization from restricting  
36 patients to seeing only health care providers who have signed  
37 participating provider agreements with the health maintenance  
38 organization or an insuring entity under contract with the health  
39 maintenance organization.

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

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

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

10          (6) The health maintenance organization need not include the  
11 coverage required in this section in a group contract offered to an  
12 employer or other group that offers to its eligible enrollees a self-  
13 insured health plan not subject to mandated benefits status under  
14 this title that does not offer coverage similar to that mandated  
15 under this section.

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

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