



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3755/1
TJD:kjf

2019 ASSEMBLY BILL 411

September 5, 2019 - Introduced by Representatives ANDERSON, BILLINGS, SHANKLAND, BOWEN, BROSTOFF, CROWLEY, EMERSON, FIELDS, GRUSZYNSKI, MILROY, OHNSTAD, SARGENT, SINICKI, SPREITZER, STUCK, SUBECK, VINING, ZAMARRIPA, RIEMER and B. MEYERS, cosponsored by Senators HANSEN, RINGHAND, CARPENTER, ERPENBACH, LARSON, MILLER, RISSER and L. TAYLOR. Referred to Committee on Insurance.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to renumber and amend* 632.895 (6); *to amend* 609.83 and 632.895 (6)
2 (title); and *to create* 632.895 (6) (b) of the statutes; **relating to:** cost sharing
3 for insulin under health insurance policies and plans.

Analysis by the Legislative Reference Bureau

This bill prohibits every health insurance policy and governmental self-insured health plan that covers insulin and that imposes cost sharing on prescription drugs from imposing cost sharing on insulin in an amount that exceeds the lesser of the following: \$100 for a one-month supply of insulin or the greater of the amount that is 125 percent of the cost of insulin or the amount generated by subtracting 51 percent of the total rebates received by the policy or plan from the cost-sharing amount that would be charged to a covered person for insulin if it is treated as any other prescription drug under the policy or plan. The bill also requires the commissioner of insurance to investigate and report on the pricing of insulin. Health insurance policies are known in the bill as disability insurance policies. Current law requires every health insurance policy that provides coverage of expenses incurred for treatment of diabetes to provide coverage for expenses incurred by the installation and use of an insulin infusion pump; coverage for all other equipment and supplies, including insulin or any other prescription medication, used in the treatment of diabetes; and coverage of diabetic self-management education programs. Except for allowing an exception for insulin infusion pump coverage, the required coverage under current law for certain diabetes treatments is subject to the same exclusions, limitations, deductibles, and

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coinsurance provisions of the policy as other covered expenses. The bill's cost-sharing limitations on insulin supersede the specification that the exclusions, limitations, deductibles, and coinsurance are the same as for other coverage.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 609.83 of the statutes is amended to read:

2 **609.83 Coverage of drugs and devices.** Limited service health
3 organizations, preferred provider plans, and defined network plans are subject to ss.
4 632.853 and 632.895 (6) (b) and (16t).

5 **SECTION 2.** 632.895 (6) (title) of the statutes is amended to read:

6 632.895 **(6)** (title) EQUIPMENT AND SUPPLIES FOR TREATMENT OF DIABETES; INSULIN.

7 **SECTION 3.** 632.895 (6) of the statutes is renumbered 632.895 (6) (a) and
8 amended to read:

9 632.895 **(6)** (a) Every disability insurance policy which provides coverage of
10 expenses incurred for treatment of diabetes shall provide coverage for expenses
11 incurred by the installation and use of an insulin infusion pump, coverage for all
12 other equipment and supplies, including insulin or any other prescription
13 medication, used in the treatment of diabetes, and coverage of diabetic
14 self-management education programs. Coverage Except as provided in par. (b),
15 coverage required under this subsection shall be subject to the same exclusions,
16 limitations, deductibles, and coinsurance provisions of the policy as other covered
17 expenses, except that insulin infusion pump coverage may be limited to the purchase
18 of one pump per year and the insurer may require the insured to use a pump for 30
19 days before purchase.

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1 **SECTION 4.** 632.895 (6) (b) of the statutes is created to read:

2 632.895 (6) (b) 1. In this paragraph:

3 a. “Cost sharing” means the total of any deductible, copayment, or coinsurance
4 amounts imposed on a person covered under a policy or plan.

5 b. “Rebate” means a price concession that accrues directly or indirectly in the
6 event of an increase in the wholesale acquisition cost of a prescription drug above a
7 specified threshold; a negotiated price concession that may accrue directly or
8 indirectly from a drug manufacturer, pharmacy, or another party in the prescription
9 drug sale transaction; or a price concession given to an insurer or plan sponsor of a
10 self-insured plan to reduce the liability of the insurer or sponsor for the prescription
11 drug.

12 c. “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

13 2. Every disability insurance policy and self-insured health plan that covers
14 insulin and that imposes cost sharing on prescription drugs may not impose cost
15 sharing on insulin in an amount that exceeds the lesser of the following:

16 a. One hundred dollars for a one-month supply of insulin.

17 b. The greater of the amount that is 125 percent of the cost to the policy or plan
18 of insulin or the amount generated by subtracting 51 percent of the total rebates
19 received by the policy or plan from the cost-sharing amount that would be charged
20 to a covered person for insulin if it is treated as any other prescription drug under
21 the policy or plan.

22 3. Nothing in this paragraph prohibits a disability insurance policy or
23 self-insured health plan from imposing cost sharing on insulin in an amount less
24 than the amount specified under subd. 2. Nothing in this paragraph requires a

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1 disability insurance policy or self-insured health plan to impose any cost sharing on
2 insulin.

3 4. Nothing in this paragraph requires a disability insurance policy or a
4 self-insured health plan to reveal the amount of rebates received or any information
5 that is protected as a trade secret.

6 **SECTION 5. Nonstatutory provisions.**

7 (1) INVESTIGATION ON INSULIN PRICING. The commissioner of insurance shall
8 investigate the pricing of prescription insulin that is made available to residents of
9 this state to ensure adequate consumer protection and determine whether
10 additional consumer protection is needed. The commissioner of insurance as part of
11 the investigation shall compile and analyze information concerning the
12 organization, business practices, pricing information, data, reports, and other
13 information from companies engaged in the manufacture or sale of prescription
14 insulin, including any publicly available information related to prescription drug
15 pricing, that the commissioner finds necessary to conduct the investigation under
16 this subsection. The commissioner of insurance may not compel any person or
17 business to provide proprietary information or trade secrets for purposes of this
18 subsection.

19 (2) REPORT ON INSULIN PRICING. By January 1, 2021, the commissioner of
20 insurance shall prepare and submit to the governor and, under s. 13.172, to the
21 legislature a report that contains all of the following based on the investigation
22 conducted under sub. (1):

23 (a) A summary of insulin pricing practices and variables that contribute to the
24 pricing of disability insurance policies.

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1 (b) Policy recommendations to control and prevent overpricing of prescription
2 insulin made available to residents of this state.

3 (c) Any recommendations for changes to the laws of this state to prevent
4 deceptive practices related to the sale or pricing of prescription insulin.

5 (d) Any other information that the commissioner of insurance determines is
6 helpful to understanding the pricing or sale of insulin or other prescription drugs.

7 **SECTION 6. Initial applicability.**

8 (1) For policies and plans containing provisions inconsistent with this act, the
9 act first applies to policy or plan years beginning on January 1 of the year following
10 the year in which this subsection takes effect, except as provided in sub. (2).

11 (2) For policies and plans that are affected by a collective bargaining agreement
12 containing provisions inconsistent with this act, this act first applies to policy or plan
13 years beginning on the effective date of this subsection or on the day on which the
14 collective bargaining agreement is newly established, extended, modified, or
15 renewed, whichever is later.

16 **SECTION 7. Effective date.**

17 (1) This act takes effect on the first day of the 4th month beginning after
18 publication.

19 (END)