WEST VIRGINIA CODE: §33-59-1

§33-59-1. Cost sharing in prescription insulin drugs.

(a) Findings. —

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at $2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed $600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums have resulted in out-of-pocket costs for many West Virginia diabetics in excess of $1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

“Cost-sharing payment” means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person’s health plan.

“Covered person” means a policyholder, subscriber, participant, or other individual covered by a health plan.

“Device” means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps;

“Health plan” means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

"Pharmacy benefits manager" means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

"Prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 *et seq*. of this code, an insurer subject to §33-15-1 *et seq*., §33-16-1 *et seq*., §33-24-1 *et seq*., §33-25-1 *et seq*., and §33-25A-1 *et seq*. of this code which issues or renews a health insurance policy on or after January 1, 2023, shall provide coverage for prescription insulin drugs and equipment pursuant to this section.

(e) Cost sharing for a 30-day supply of a covered prescription insulin drug may not exceed $35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription. Cost sharing for a 30-day supply of covered device(s) may not exceed $100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person's deductible, copayment, coinsurance or any other cost-sharing requirement.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §33-15-1 *et seq*., §33-16-1 *et seq*., §33-24-1 *et seq*., §33-25-1 *et seq*., and §33-25A-1 *et seq*. of this code or its pharmacy benefits manager and a pharmacy or its contracting agent may contain a provision: (i) Authorizing the insurer's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment

for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this section.

(h) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and non-insulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this section. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection: *Provided*, That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 *et seq.* of this code.

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and may not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person’s costs sharing is being impacted.

(m) A prescription is not required to obtain a blood testing kit for ketones.