

BILL ANALYSIS

Senate Research Center

S.B. 827
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Statement of Purpose

Ensure that patients are able to access and afford life-saving and medically necessary insulin.

Background

Approximately 2,800,000 people in Texas, roughly 14 percent of the adult population, have diabetes. The price of insulin has increased 1,000 percent over the last 25 years, making it more and more difficult for Texans to afford. Diabetes and prediabetes costs Texans an estimated \$23.7 billion each year. Texans frequently spend anywhere from \$300 to over \$1,000 per month on the cost of their supply of insulin, not including any additionally needed diabetes-related medical supplies.

A new nationwide survey showed that the 34 million Americans living with diabetes face unique, acute, and intensified challenges to their health as a result of the COVID-19 pandemic challenges that may increase their COVID risk for complications. Recent studies show that the financial and economic toll of the pandemic has left countless Americans with diabetes without access they need to properly manage their diabetes or even survive during this time. Implementation of a co-pay cap during this time can alleviate some of this burden and reduce the occurrence of individuals rationing their insulin or being unable to afford it completely.

To date, 14 states have implemented similar insulin co-pay cap legislation. The co-pay caps range from \$25 to \$100 dollars, with the average amount being around \$65.

Key Provisions

This bill implements a cap of \$50 on the out-of-pocket monthly cost on insulin for those covered by insurance.

This does not change or limit what insulin manufacturers can charge insurance companies, instead only capping what patients are required to pay.

As proposed, S.B. 827 amends current law relating to pricing of and health benefit plan cost-sharing requirements for prescription insulin.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1358, Insurance Code, by adding Subchapter C, as follows:

SUBCHAPTER C. COST-SHARING LIMIT

Sec. 1358.101. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to a health benefit plan (HBP) that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group

hospital service contract, or a small or large employer group contract or similar coverage document that is offered by certain organizations.

(b) Provides that this subchapter applies to group health coverage made available by a school district in accordance with Section 22.004 (Group Health Benefits for School Employees), Education Code.

(c) Provides that this subchapter, notwithstanding any provision in Chapter 1551 (Texas Employees Group Benefits Act), 1575 (Texas Public School Employees Group Benefits Program), 1579 (Texas School Employees Uniform Group Health Coverage), or 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System) or any other law, applies to certain coverage plans under these chapters.

(d) Provides that this subchapter, notwithstanding any other law, applies to coverage under:

(1) the child health plan program under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, or the HBP for children under Chapter 63 (Health Benefits Plan for Certain Children), Health and Safety Code; and

(2) the medical assistance program under Chapter 32 (Medical Assistance Program), Human Resources Code.

Sec. 1358.102. EXCEPTION. Provides that this subchapter does not apply to:

(1) an HBP that provides certain types of coverage;

(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(3) medical payment insurance coverage provided under a motor vehicle insurance policy;

(4) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner of insurance determines that the policy provides benefit coverage so comprehensive that the policy is an HBP as described by Section 1358.101;

(5) health and accident coverage provided by a risk pool created under Chapter 172 (Texas Political Subdivisions Uniform Group Benefits Program), Local Government Code; or

(6) a workers' compensation insurance policy.

Sec. 1358.103. LIMIT ON COST-SHARING REQUIREMENT. (a) Defines "insulin."

(b) Prohibits an HBP from imposing a cost-sharing provision for insulin if the total amount the enrollee is required to pay exceeds \$50 for a 30-day supply, regardless of the amount or type of insulin needed to fill the enrollee's prescription.

SECTION 2. (a) Defines "commission" as the Health and Human Services Commission (HHSC).

(b) Requires that HHSC conduct a study evaluating pricing of prescription insulin drugs to ensure adequate consumer protections in pricing of prescription insulin drugs and consider whether additional consumer protections are necessary.

(c) Requires that HHSC request from HBP issuers and prescription drug manufacturers information concerning the organization, business practices, pricing information, data, reports, or other information HHSC determines is necessary to conduct the study. Requires that HHSC also consider any publicly available information related to prescription insulin pricing.

(d) Requires that an HBP issuer or prescription drug manufacturer who receives a request from HHSC under Subsection (c) of this section furnish HHSC with the information as soon as practicable after the date the issuer or manufacturer receives the request.

(e) Prohibits HHSC from requiring an HBP issuer or prescription drug manufacturer to disclose trade secrets in information provided to the commission under Subsection (d) of this section.

(f) Requires that HHSC, not later than September 1, 2022, prepare and submit to the governor, the lieutenant governor, and the speaker of the house of representatives a written report containing the results of the study. Requires that the report include:

(1) a summary of insulin pricing practices and variables that contribute to pricing of HBPs;

(2) policy recommendations to control and prevent overpricing of prescription insulin; and

(3) any other information HHSC determines is necessary.

(g) Requires that HHSC publish the report described by Subsection (f) of this section on its Internet website.

(h) Provides that this section expires September 1, 2023.

SECTION 3. Makes application of this Act prospective to January 1, 2022.

SECTION 4. Effective date: September 1, 2021.