

By: Talarico

H.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to a cap on the monthly price of insulin and insulin supplies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1358, Insurance Code, is amended by adding Section 1358.058 to read as follows:

Sec. 1358.058. COST SHARING IN PRESCRIPTION INSULIN DRUGS - LIMITS CONFIDENTIALITY OF REBATE INFORMATION - DEFINITION -RULES.

(1) As used in this section, unless the context otherwise requires, "prescription insulin drug" means a prescription drug, as defined in section 1358.051, that contains insulin and is used to treat diabetes.

(2) a carrier that provides coverage for prescription insulin drugs pursuant to the terms of a health coverage plan the carrier offers shall cap the total amount that a covered person is required to pay for a covered prescription insulin drug at an amount not to exceed one hundred dollars per thirty-day supply of insulin, regardless of the amount or type of insulin needed to fill the covered person's prescription.

(3) nothing in this section prevents a carrier from reducing a covered person's cost sharing by an amount greater than the amount specified in subsection (2) of this section.

(4) This section applies to health coverage plans offered by the Employees Retirement System of Texas and the Teacher

1 Retirement System of Texas.

2 (5) the commissioner may use any of the commissioner's
3 enforcement powers to obtain a carrier's compliance with this
4 section.

5 (6) the commissioner may promulgate rules as necessary
6 to implement and administer this section and to align with federal
7 requirements.

8 SECTION 2. Chapter 1358, Insurance Code, is amended by
9 adding Section 1358.059 to read as follows:

10 Sec. 1358.059. INVESTIGATION AND REPORTING OF PRESCRIPTION
11 INSULIN DRUG PRICING. (a) The Department of Health and Human
12 Services shall investigate and report on the pricing of
13 prescription insulin drugs

14 (1) made available to Texas consumers to ensure
15 adequate consumer protections in pricing of prescription insulin
16 drugs and whether additional consumer protections are needed.

17 (2) (a) as part of the investigation by the
18 department, the department shall gather, compile, and analyze
19 information concerning the organization, business practices,
20 pricing information, data, reports, or other information that the
21 department finds necessary to fulfill the requirements of this
22 section from companies engaged in the manufacture or sale of
23 prescription insulin drugs. The department shall also consider any
24 publicly available information related to drug pricing.

25 (b) if necessary to fulfill the reporting
26 requirements of this section, the attorney general may issue a
27 civil investigative demand requiring a state department; carrier;

1 pharmacy benefit management firm; or manufacturer of prescription
2 insulin drugs that are made available in Texas, to furnish
3 material, answers, data, or other relevant information.

4 (3) a person or business shall not be compelled to
5 provide trade secrets.

6 (4) by September 1, 2022, the department shall issue
7 and make available to the public a report detailing its findings
8 from the investigation conducted pursuant to this section. The
9 department shall present the report to the Governor, the Lieutenant
10 Governor, the Speaker of the House, and the Senate Committee on
11 Business and Commerce and the House Committee on Insurance or their
12 successor committees. The report must include:

13 (a) a summary of insulin pricing practices and
14 variables that contribute to pricing of health coverage plans;

15 (b) public policy recommendations to control and
16 prevent overpricing of prescription insulin drugs made available to
17 Texas consumers;

18 (c) any recommendations to improve consumer
19 protections, to prevent deceptive sales practices related to the
20 sale of prescription insulin drugs, including the pricing of those
21 drugs; and

22 (d) any other information the department finds
23 necessary.

24 (5) this section is repealed, effective December 1,
25 2022.

26 SECTION 3. This Act applies only to a health benefit plan
27 that is delivered, issued for delivery, or renewed on or after

1 January 1, 2022. A health benefit plan that is delivered, issued for
2 delivery, or renewed before January 1, 2022, is governed by the law
3 as it existed immediately before the effective date of this Act, and
4 that law is continued in effect for that purpose.

5 SECTION 7. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2021.