

AMENDED IN ASSEMBLY FEBRUARY 16, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 97

Introduced by Assembly Member Nazarian

December 8, 2020

An act ~~relating to insulin~~, to amend Section 1367.51 of the Health and Safety Code, and to amend Section 10176.61 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 97, as amended, Nazarian. ~~Insulin~~ Health care coverage: insulin affordability.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. ~~Care and makes a willful violation of the act's requirements a crime.~~ Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or ~~health disability~~ insurance policy issued, amended, delivered, or renewed on or after January 1, 2000, that covers prescription benefits to include coverage for insulin, if it is determined to be medically necessary.

~~This bill would express the intent of the Legislature to enact legislation to make insulin more affordable for Californians.~~

This bill would prohibit a health care service plan contract or a health insurance policy issued, amended, delivered, or renewed on or after January 1, 2022, from imposing a deductible on an insulin prescription drug. Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*

3 (1) *Approximately 263,000 Californians are diagnosed with*
4 *type 1 diabetes each year. Approximately 4,037,000 Californian*
5 *adults have diabetes.*

6 (2) *Every Californian with type 1 diabetes, and many with type*
7 *2 diabetes, rely on daily doses of insulin to survive.*

8 (3) *Insulin prices have nearly tripled, creating financial*
9 *hardships for people who rely on it to survive.*

10 (4) *One in four people using insulin have reported insulin*
11 *underuse due to the high cost of insulin.*

12 (5) *Imposing a deductible on insulin, and requiring individuals*
13 *to meet that deductible, creates a financial burden that presents*
14 *a barrier to accessing insulin.*

15 (6) *Diabetes is the seventh leading cause of death, and it is a*
16 *leading cause of disabling and life-threatening complications,*
17 *including heart disease, stroke, kidney failure, amputation of the*
18 *lower extremities, and new cases of blindness among adults.*

19 (7) *Studies have shown that managing diabetes can prevent*
20 *complications and medical emergencies associated with diabetes*
21 *that result in emergency room visits, hospitalizations, and costly*
22 *treatments.*

23 (b) *Therefore, it is the intent of the Legislature to enact*
24 *legislation on important policies to reduce the costs for*
25 *Californians with diabetes to obtain life-saving and life-sustaining*
26 *insulin.*

27 SEC. 2. *Section 1367.51 of the Health and Safety Code is*
28 *amended to read:*

1 1367.51. (a) ~~Every~~A health care service plan contract, except
2 a specialized health care service plan contract, that is issued,
3 amended, delivered, or renewed on or after January 1, 2000, and
4 that covers hospital, medical, or surgical expenses shall include
5 coverage for the following equipment and supplies for the
6 management and treatment of insulin-using diabetes,
7 non-insulin-using diabetes, and gestational diabetes as medically
8 necessary, even if the items are available without a prescription:

- 9 (1) Blood glucose monitors and blood glucose testing strips.
- 10 (2) Blood glucose monitors designed to assist the visually
11 impaired.
- 12 (3) Insulin pumps and all related necessary supplies.
- 13 (4) Ketone urine testing strips.
- 14 (5) Lancets and lancet puncture devices.
- 15 (6) Pen delivery systems for the administration of insulin.
- 16 (7) Podiatric devices to prevent or treat diabetes-related
17 complications.
- 18 (8) Insulin syringes.
- 19 (9) Visual aids, excluding eyewear, to assist the visually
20 impaired with proper dosing of insulin.

21 (b) ~~Every~~A health care service plan contract, except a
22 specialized health care service plan contract, that is issued,
23 amended, delivered, or renewed on or after January 1, 2000, that
24 covers prescription benefits shall include coverage for the following
25 prescription items if the items are determined to be medically
26 necessary:

- 27 (1) Insulin.
- 28 (2) Prescriptive medications for the treatment of diabetes.
- 29 (3) Glucagon.

30 (c) The copayments and deductibles for the benefits specified
31 in subdivisions (a) and (b) shall not exceed those established for
32 similar benefits within the given plan.

33 (d) (1) *Notwithstanding subdivision (c), a health care service*
34 *plan contract that is issued, amended, or renewed on or after*
35 *January 1, 2022, shall not impose a deductible on an insulin*
36 *prescription drug.*

37 (2) *For purposes of this subdivision, “insulin prescription*
38 *drug” means a prescription drug that contains insulin and is used*
39 *to control blood glucose levels to treat diabetes.*

40 ~~(d) Every plan~~

1 (e) A health care service plan shall provide coverage for
 2 diabetes outpatient self-management training, education, and
 3 medical nutrition therapy necessary to enable an enrollee to
 4 properly use the equipment, supplies, and medications set forth in
 5 subdivisions (a) and (b), and additional diabetes outpatient
 6 self-management training, education, and medical nutrition therapy
 7 upon the direction or prescription of those services by the enrollee's
 8 participating physician. If a plan delegates outpatient
 9 self-management training to contracting providers, the plan shall
 10 require contracting providers to ensure that diabetes outpatient
 11 self-management training, education, and medical nutrition therapy
 12 are provided by appropriately licensed or registered health care
 13 professionals.

14 (e)

15 (f) The diabetes outpatient self-management training, education,
 16 and medical nutrition therapy services identified in subdivision
 17 ~~(d)~~ (e) shall be provided by appropriately licensed or registered
 18 health care professionals as prescribed by a participating health
 19 care professional legally authorized to prescribe the service. These
 20 benefits shall include, but not be limited to, instruction that will
 21 enable diabetic patients and their families to gain an understanding
 22 of the diabetic disease process, and the daily management of
 23 diabetic therapy, in order to thereby avoid frequent hospitalizations
 24 and complications.

25 ~~(f)~~

26 (g) The copayments for the benefits specified in subdivision ~~(d)~~
 27 (e) shall not exceed those established for physician office visits
 28 by the plan.

29 ~~(g) Every~~

30 (h) A health care service plan governed by this section shall
 31 disclose the benefits covered pursuant to this section in the plan's
 32 evidence of coverage and disclosure forms.

33 ~~(h)~~

34 (i) A health care service plan ~~may~~ shall not reduce or eliminate
 35 coverage as a result of the requirements of this section.

36 ~~(i) Nothing in this section shall be construed to~~

37 (j) This section does not deny or restrict in any way the
 38 department's authority to ensure plan compliance with this chapter
 39 when if a plan provides coverage for prescription drugs.

1 *SEC. 3. Section 10176.61 of the Insurance Code is amended*
2 *to read:*

3 10176.61. (a) ~~Every~~*An* insurer issuing, amending, delivering,
4 or renewing a disability insurance policy on or after January 1,
5 2000, that covers hospital, medical, or surgical expenses shall
6 include coverage for the following equipment and supplies for the
7 management and treatment of insulin-using diabetes,
8 non-insulin-using diabetes, and gestational diabetes as medically
9 necessary, even if the items are available without a prescription:

10 (1) Blood glucose monitors and blood glucose testing strips.

11 (2) Blood glucose monitors designed to assist the visually
12 impaired.

13 (3) Insulin pumps and all related necessary supplies.

14 (4) Ketone urine testing strips.

15 (5) Lancets and lancet puncture devices.

16 (6) Pen delivery systems for the administration of insulin.

17 (7) Podiatric devices to prevent or treat diabetes-related
18 complications.

19 (8) Insulin syringes.

20 (9) Visual aids, excluding eyewear, to assist the visually
21 impaired with proper dosing of insulin.

22 (b) ~~Every~~*An* insurer issuing, amending, delivering, or renewing
23 a disability insurance policy on or after January 1, 2000, that covers
24 prescription benefits shall include coverage for the following
25 prescription items if the items are determined to be medically
26 necessary:

27 (1) Insulin.

28 (2) Prescriptive medications for the treatment of diabetes.

29 (3) Glucagon.

30 (c) The coinsurances and deductibles for the benefits specified
31 in subdivisions (a) and (b) shall not exceed those established for
32 similar benefits within the given policy.

33 (d) (1) *Notwithstanding subdivision (c), a health insurance*
34 *policy that is issued, amended, or renewed on or after January 1,*
35 *2022, shall not impose a deductible on an insulin prescription*
36 *drug.*

37 (2) *For purposes of this subdivision, “insulin prescription drug”*
38 *means a prescription drug that contains insulin and is used to*
39 *control blood glucose levels to treat diabetes.*

40 ~~(d) Every insurer~~

1 (e) An insurer shall provide coverage for diabetes outpatient
 2 self-management training, education, and medical nutrition therapy
 3 necessary to enable an insured to properly use the equipment,
 4 supplies, and medications set forth in subdivisions (a) and (b) and
 5 additional diabetes outpatient self-management training, education,
 6 and medical nutrition therapy upon the direction or prescription
 7 of those services by the insured’s participating physician. If an
 8 insurer delegates outpatient self-management training to contracting
 9 providers, the insurer shall require contracting providers to ensure
 10 that diabetes outpatient self-management training, education, and
 11 medical nutrition therapy are provided by appropriately licensed
 12 or registered health care professionals.

13 ~~(e)~~

14 (f) The diabetes outpatient self-management training, education,
 15 and medical nutrition therapy services identified in subdivision
 16 ~~(d)~~ (e) shall be provided by appropriately licensed or registered
 17 health care professionals as prescribed by a health care professional
 18 legally authorized to prescribe the services.

19 ~~(f)~~

20 (g) The coinsurances and deductibles for the benefits specified
 21 in subdivision ~~(d)~~ (e) shall not exceed those established for
 22 physician office visits by the insurer.

23 ~~(g)~~

24 (h) Every disability insurer governed by this section shall
 25 disclose the benefits covered pursuant to this section in the insurer’s
 26 evidence of coverage and disclosure forms.

27 ~~(h) An insurer may~~

28 (i) An insurer shall not reduce or eliminate coverage as a result
 29 of the requirements of this section.

30 ~~(i)~~

31 (j) This section does not apply to vision-only, dental-only,
 32 accident-only, specified disease, hospital indemnity, Medicare
 33 supplement, long-term care, or disability income insurance, except
 34 that for accident-only, specified disease, and hospital indemnity
 35 insurance coverage, benefits under this section only apply to the
 36 extent that the benefits are covered under the general terms and
 37 conditions that apply to all other benefits under the policy. ~~Nothing~~
 38 ~~in this section may be construed as imposing~~ This section does not
 39 impose a new benefit mandate on accident-only, specified disease,
 40 or hospital indemnity insurance.

1 *SEC. 4. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SECTION 1. It is the intent of the Legislature to enact~~
11 ~~legislation to make insulin more affordable for Californians.~~