

Introduced by Senator WienerJanuary 17, 2023

An act 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

SB 90, as introduced, Wiener. 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 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 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 prohibit a health care service plan contract or a disability insurance policy, as specified, issued, amended, delivered, or renewed on or after January 1, 2024, from imposing a deductible on an insulin prescription drug or imposing a copayment of more than \$35 for a 30-day supply of an insulin prescription drug, except as specified for a high deductible health plan. 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: yes. State-mandated local program: 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 hardships
9 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 a
14 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 Californians
25 with diabetes to obtain lifesaving and life-sustaining insulin.

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

28 1367.51. (a) ~~Every~~A health care service plan contract, except
29 a specialized health care service plan contract, that is issued,
30 amended, delivered, or renewed on or after January 1, 2000, and
31 that covers hospital, medical, or surgical expenses shall include
32 coverage for the following equipment and supplies for the
33 management and treatment of insulin-using diabetes,

1 non-insulin-using diabetes, and gestational diabetes as medically
2 necessary, even if the items are available without a prescription:

- 3 (1) Blood glucose monitors and blood glucose testing strips.
- 4 (2) Blood glucose monitors designed to assist the visually
5 impaired.
- 6 (3) Insulin pumps and all related necessary supplies.
- 7 (4) Ketone urine testing strips.
- 8 (5) Lancets and lancet puncture devices.
- 9 (6) Pen delivery systems for the administration of insulin.
- 10 (7) Podiatric devices to prevent or treat diabetes-related
11 complications.

12 (8) Insulin syringes.
13 (9) Visual aids, excluding eyewear, to assist the visually
14 impaired with proper dosing of insulin.

15 (b) ~~Every~~—A health care service plan contract, except a
16 specialized health care service plan contract, that is issued,
17 amended, delivered, or renewed on or after January 1, 2000, that
18 covers prescription benefits shall include coverage for the following
19 prescription items if the items are determined to be medically
20 necessary:

- 21 (1) Insulin.
- 22 (2) Prescriptive medications for the treatment of diabetes.
- 23 (3) Glucagon.
- 24 (c) The copayments and deductibles for the benefits specified
25 in subdivisions (a) and (b) shall not exceed those established for
26 similar benefits within the given plan.

27 (d) (1) *Notwithstanding subdivision (c), a health care service*
28 *plan contract that is issued, amended, or renewed on or after*
29 *January 1, 2024, shall not impose a deductible on an insulin*
30 *prescription drug and shall not impose a copayment on an insulin*
31 *prescription drug that exceeds thirty-five dollars (\$35) for a 30-day*
32 *supply.*

33 (2) *For a health care service plan contract that is a “high*
34 *deductible health plan” under the definition set forth in Section*
35 *223(c)(2) of Title 26 of the United States Code, paragraph (1)*
36 *shall apply only to an insulin prescription drug that is included*
37 *as preventive care for the purposes of Section 223(c)(2)(C) of Title*
38 *26 of the United States Code.*

39 (3) *When the state has the capacity to label or produce an*
40 *insulin prescription drug, the copayment limitation in paragraph*

1 *(1) shall apply to an insulin prescription drug product, or any*
2 *therapeutic equivalent, labeled or produced by the state.*

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

6 ~~(d) Every~~

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

20 ~~(e)~~

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

31 ~~(f)~~

32 *(g) The copayments for the benefits specified in subdivision-~~(d)~~
33 *(e) shall not exceed those established for physician office visits*
34 *by the plan.**

35 ~~(g) Every~~

36 *(h) A health care service plan governed by this section shall*
37 *disclose the benefits covered pursuant to this section in the plan’s*
38 *evidence of coverage and disclosure forms.*

39 ~~(h)~~

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

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

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

7 SEC. 3. Section 10176.61 of the Insurance Code is amended
8 to read:

9 10176.61. (a) ~~Every~~ *An* insurer issuing, amending, delivering,
10 or renewing a disability insurance policy on or after January 1,
11 2000, that covers hospital, medical, or surgical expenses shall
12 include coverage for the following equipment and supplies for the
13 management and treatment of insulin-using diabetes,
14 non-insulin-using diabetes, and gestational diabetes as medically
15 necessary, even if the items are available without a prescription:

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

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

- 33 (1) Insulin.
- 34 (2) Prescriptive medications for the treatment of diabetes.
- 35 (3) Glucagon.
- 36 (c) The coinsurances and deductibles for the benefits specified
37 in subdivisions (a) and (b) shall not exceed those established for
38 similar benefits within the given policy.

39 (d) (1) *Notwithstanding subdivision (c), a disability insurance*
40 *policy that is issued, amended, or renewed on or after January 1,*

1 2024, shall not impose a deductible on an insulin prescription
2 drug and shall not impose a copayment on an insulin prescription
3 drug that exceeds thirty-five dollars (\$35) for a 30-day supply.

4 (2) For a disability insurance policy that is a “high deductible
5 health plan” under the definition set forth in Section 223(c)(2) of
6 Title 26 of the United States Code, paragraph (1) shall apply only
7 to an insulin prescription drug that is included as preventive care
8 for the purposes of Section 223(c)(2)(C) of Title 26 of the United
9 States Code.

10 (3) When the state has the capacity to label or produce an
11 insulin prescription drug, the copayment limitation in paragraph
12 (1) shall apply to an insulin prescription drug product, or any
13 therapeutic equivalent, labeled or produced by the state.

14 (4) For purposes of this subdivision, “insulin prescription drug”
15 means a prescription drug that contains insulin and is used to
16 control blood glucose levels to treat diabetes.

17 ~~(d)~~ Every

18 (e) An insurer shall provide coverage for diabetes outpatient
19 self-management training, education, and medical nutrition therapy
20 necessary to enable an insured to properly use the equipment,
21 supplies, and medications set forth in subdivisions (a) and (b) and
22 additional diabetes outpatient self-management training, education,
23 and medical nutrition therapy upon the direction or prescription
24 of those services by the insured’s participating physician. If an
25 insurer delegates outpatient self-management training to contracting
26 providers, the insurer shall require contracting providers to ensure
27 that diabetes outpatient self-management training, education, and
28 medical nutrition therapy are provided by appropriately licensed
29 or registered health care professionals.

30 ~~(e)~~

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

36 ~~(f)~~

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

40 ~~(g)~~

1 (h) Every disability insurer governed by this section shall
2 disclose the benefits covered pursuant to this section in the insurer's
3 evidence of coverage and disclosure forms.

4 ~~(h)~~

5 (i) An insurer ~~may~~ shall not reduce or eliminate coverage as a
6 result of ~~the requirements of~~ this section.

7 ~~(i)~~

8 (j) This section does not apply to vision-only, dental-only,
9 accident-only, specified disease, hospital indemnity, Medicare
10 supplement, long-term care, or disability income insurance, except
11 that for accident-only, specified disease, and hospital indemnity
12 insurance coverage, benefits under this section only apply to the
13 extent that the benefits are covered under the general terms and
14 conditions that apply to all other benefits under the policy. ~~Nothing~~
15 ~~in this section may be construed as imposing~~ *This section does not*
16 *impose* a new benefit mandate on accident-only, specified disease,
17 or hospital indemnity insurance.

18 SEC. 4. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.