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.


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

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

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

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

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

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

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

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

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

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

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

1367.51. (a) Every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, and that covers hospital, medical, or surgical expenses shall include coverage for the following equipment and supplies for the management and treatment of insulin-using diabetes,
non-insulin-using diabetes, and gestational diabetes as medically
necessary, even if the items are available without a prescription:
(1) Blood glucose monitors and blood glucose testing strips.
(2) Blood glucose monitors designed to assist the visually
impaired.
(3) Insulin pumps and all related necessary supplies.
(4) Ketone urine testing strips.
(5) Lancets and lancet puncture devices.
(6) Pen delivery systems for the administration of insulin.
(7) Podiatric devices to prevent or treat diabetes-related
complications.
(8) Insulin syringes.
(9) Visual aids, excluding eyewear, to assist the visually
impaired with proper dosing of insulin.
(b) Every health care service plan contract, except a
specialized health care service plan contract, that is issued,
amended, delivered, or renewed on or after January 1, 2000, that
covers prescription benefits shall include coverage for the following
prescription items if the items are determined to be medically
necessary:
(1) Insulin.
(2) Prescriptive medications for the treatment of diabetes.
(3) Glucagon.
(c) The copayments and deductibles for the benefits specified
in subdivisions (a) and (b) shall not exceed those established for
similar benefits within the given plan.
(d) (1) Notwithstanding subdivision (c), a health care service
plan contract that is issued, amended, or renewed on or after
January 1, 2024, shall not impose a deductible on an insulin
prescription drug and shall not impose a copayment on an insulin
prescription drug that exceeds thirty-five dollars ($35) for a 30-day
supply.
(2) For a health care service plan contract that is a “high
deductible health plan” under the definition set forth in Section
223(c)(2) of Title 26 of the United States Code, paragraph (1)
shall apply only to an insulin prescription drug that is included
as preventive care for the purposes of Section 223(c)(2)(C) of Title
26 of the United States Code.
(3) When the state has the capacity to label or produce an
insulin prescription drug, the copayment limitation in paragraph
(1) shall apply to an insulin prescription drug product, or any therapeutic equivalent, labeled or produced by the state. 
(4) For purposes of this subdivision, “insulin prescription drug” means a prescription drug that contains insulin and is used to control blood glucose levels to treat diabetes.

(d) Every health care service plan shall provide coverage for diabetes outpatient self-management training, education, and medical nutrition therapy necessary to enable an enrollee to properly use the equipment, supplies, and medications set forth in subdivisions (a) and (b), and additional diabetes outpatient self-management training, education, and medical nutrition therapy upon the direction or prescription of those services by the enrollee’s participating physician. If a plan delegates outpatient self-management training to contracting providers, the plan shall require contracting providers to ensure that diabetes outpatient self-management training, education, and medical nutrition therapy are provided by appropriately licensed or registered health care professionals.

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

(f) The copayments for the benefits specified in subdivision (d) (e) shall not exceed those established for physician office visits by the plan.

(g) Every health care service plan governed by this section shall disclose the benefits covered pursuant to this section in the plan’s evidence of coverage and disclosure forms.
(i) A health care service plan may *shall* not reduce or eliminate coverage as a result of the requirements of this section.

(j) Nothing in this section shall be construed to

This section does not deny or restrict in any way the department’s authority to ensure plan compliance with this chapter when if a plan provides coverage for prescription drugs.

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

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

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

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

(1) Insulin.
(2) Prescriptive medications for the treatment of diabetes.
(3) Glucagon.

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

(d) (1) Notwithstanding subdivision (c), a disability insurance policy that is issued, amended, or renewed on or after January 1,
2024, shall not impose a deductible on an insulin prescription
drug and shall not impose a copayment on an insulin prescription
drug that exceeds thirty-five dollars ($35) for a 30-day supply.

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

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

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

(e) Every

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

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

(g) The coinsurances and deductibles for the benefits specified
in subdivision (d) (e) shall not exceed those established for
physician office visits by the insurer.
Every disability insurer governed by this section shall disclose the benefits covered pursuant to this section in the insurer’s evidence of coverage and disclosure forms.

An insurer may not reduce or eliminate coverage as a result of the requirements of this section.

This section does not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident-only, specified disease, and hospital indemnity insurance coverage, benefits under this section only apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy. Nothing in this section may be construed as imposing a new benefit mandate on accident-only, specified disease, or hospital indemnity insurance.

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