

CHAPTER 248

INSURANCE

HOUSE BILL 19-1216

BY REPRESENTATIVE(S) Roberts, McCluskie, Arndt, Beckman, Benavidez, Bird, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Froelich, Galindo, Garnett, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Landgraf, Liston, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Wilson, Becker, Buckner, Exum, Will;
also SENATOR(S) Donovan and Priola, Bridges, Court, Danielson, Fenberg, Fields, Ginal, Gonzales, Moreno, Pettersen, Story, Todd, Williams A., Winter.

AN ACT

CONCERNING MEASURES TO REDUCE A PATIENT'S COSTS OF PRESCRIPTION INSULIN DRUGS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Almost twenty thousand Coloradans are diagnosed with diabetes each year. As of January 1, 2018, nearly three hundred thousand Colorado adults have been diagnosed with diabetes and another one hundred ten thousand are undiagnosed but living with the disease.

(b) Every Coloradan with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(c) The annual medical cost related to diabetes in Colorado is almost four billion dollars. Approximately eighteen percent of that amount, or seven hundred million dollars, is for prescription drugs to treat diabetes.

(d) Insulin prices rose by forty-five percent between 2014 and 2017, and over the last fourteen years, the price of insulin has risen by five hundred fifty-five percent, adjusted for inflation;

(e) One in four type 1 diabetics have reported insulin underuse due to the high

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

cost of insulin; and

(f) Therefore, it is important to enact policies to reduce the costs for Coloradans with diabetes to obtain life-saving and life-sustaining insulin.

SECTION 2. In Colorado Revised Statutes, **add** 10-16-151 as follows:

10-16-151. Cost sharing in prescription insulin drugs - limits - confidentiality of rebate information - definition - rules. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHER REQUIRES, "PRESCRIPTION INSULIN DRUG" MEANS A PRESCRIPTION DRUG, AS DEFINED IN SECTION 12-42.5-102 (34), 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) THE COMMISSIONER MAY USE ANY OF THE COMMISSIONER'S ENFORCEMENT POWERS TO OBTAIN A CARRIER'S COMPLIANCE WITH THIS SECTION.

(5) THE COMMISSIONER MAY PROMULGATE RULES AS NECESSARY TO IMPLEMENT AND ADMINISTER THIS SECTION AND TO ALIGN WITH FEDERAL REQUIREMENTS.

SECTION 3. In Colorado Revised Statutes, **add** 24-31-110 as follows:

24-31-110. Department of law - investigate prescription insulin drug pricing - report - repeal. (1) THE DEPARTMENT OF LAW SHALL INVESTIGATE PRICING OF PRESCRIPTION INSULIN DRUGS, AS DEFINED IN SECTION 10-16-151 (1), MADE AVAILABLE TO COLORADO CONSUMERS TO ENSURE ADEQUATE CONSUMER PROTECTIONS IN PRICING OF PRESCRIPTION INSULIN DRUGS AND WHETHER ADDITIONAL CONSUMER PROTECTIONS ARE NEEDED.

(2) (a) AS PART OF THE INVESTIGATION BY THE DEPARTMENT OF LAW, THE DEPARTMENT OF LAW SHALL GATHER, COMPILE, AND ANALYZE INFORMATION CONCERNING THE ORGANIZATION, BUSINESS PRACTICES, PRICING INFORMATION, DATA, REPORTS, OR OTHER INFORMATION THAT THE DEPARTMENT OF LAW FINDS NECESSARY TO FULFILL THE REQUIREMENTS OF THIS SECTION FROM COMPANIES ENGAGED IN THE MANUFACTURE OR SALE OF PRESCRIPTION INSULIN DRUGS. THE DEPARTMENT OF LAW SHALL ALSO CONSIDER ANY PUBLICLY AVAILABLE INFORMATION RELATED TO DRUG PRICING.

(b) IF NECESSARY TO FULFILL THE REPORTING REQUIREMENTS OF THIS SECTION, THE ATTORNEY GENERAL MAY ISSUE A CIVIL INVESTIGATIVE DEMAND REQUIRING A STATE DEPARTMENT; CARRIER, AS DEFINED IN SECTION 10-16-102 (8); PHARMACY

BENEFIT MANAGEMENT FIRM, AS DEFINED IN SECTION 10-16-102 (49); OR MANUFACTURER OF PRESCRIPTION INSULIN DRUGS THAT ARE MADE AVAILABLE IN COLORADO, TO FURNISH MATERIAL, ANSWERS, DATA, OR OTHER RELEVANT INFORMATION.

(3) A PERSON OR BUSINESS SHALL NOT BE COMPELLED TO PROVIDE TRADE SECRETS, AS DEFINED IN SECTION 7-74-102 (4).

(4) BY NOVEMBER 1, 2020, THE DEPARTMENT OF LAW SHALL ISSUE AND MAKE AVAILABLE TO THE PUBLIC A REPORT DETAILING ITS FINDINGS FROM THE INVESTIGATION CONDUCTED PURSUANT TO THIS SECTION. THE DEPARTMENT OF LAW SHALL PRESENT THE REPORT TO THE GOVERNOR, THE COMMISSIONER OF INSURANCE, AND THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES OR THEIR SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE:

(a) A SUMMARY OF INSULIN PRICING PRACTICES AND VARIABLES THAT CONTRIBUTE TO PRICING OF HEALTH COVERAGE PLANS, AS DEFINED IN SECTION 10-16-102 (34);

(b) PUBLIC POLICY RECOMMENDATIONS TO CONTROL AND PREVENT OVERPRICING OF PRESCRIPTION INSULIN DRUGS MADE AVAILABLE TO COLORADO CONSUMERS;

(c) ANY RECOMMENDATIONS FOR IMPROVEMENTS TO THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, TO PREVENT DECEPTIVE SALES PRACTICES RELATED TO THE SALE OF PRESCRIPTION INSULIN DRUGS, INCLUDING THE PRICING OF THOSE DRUGS; AND

(d) ANY OTHER INFORMATION THE DEPARTMENT OF LAW FINDS NECESSARY.

(5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 1, 2020.

SECTION 4. Appropriation. For the 2019-20 state fiscal year, \$26,054 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S., and is based on an assumption that the division will require an additional 0.4 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to health coverage plans issued or renewed on or after

January 1, 2020, or the date of the official declaration of the vote by the governor, whichever is later.

Approved: May 22, 2019