

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0292.03 Yelana Love x2295

HOUSE BILL 21-1307

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE ACCESS TO PRESCRIPTION**
102 **INSULIN FOR PERSONS WITH DIABETES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- Provides that the current law establishing a \$100 cap on a person's 30-day supply of prescription insulin is for the person's entire insulin supply, regardless of the number of prescriptions a person may have;
- Provides eligible individuals access to one emergency

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 24, 2021

HOUSE
Amended 2nd Reading
May 22, 2021

- prescription insulin supply within a 12-month period at a cost not to exceed \$35 for a 30-day supply; and
● Creates the insulin affordability program in the division of insurance through which eligible individuals may obtain prescription insulin for 12 months at a cost of not more than \$50 for a 30-day supply.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-151, **amend**
3 (2) as follows:

4 **10-16-151. Cost sharing in prescription insulin drugs - limits**
5 **- definition - rules.** (2) A carrier that provides coverage for prescription
6 insulin drugs pursuant to the terms of a health coverage plan the carrier
7 offers shall cap the total amount that a covered person is required to pay
8 for a ALL covered prescription insulin ~~drug~~ DRUGS at an amount not to
9 exceed one hundred dollars ~~per~~ FOR THE COVERED PERSON'S ENTIRE
10 thirty-day supply of insulin, regardless of the amount or type of insulin
11 needed to fill the covered person's prescription OR THE NUMBER OF
12 PRESCRIPTIONS.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 12-280-137 and
14 12-280-138 as follows:

15 **12-280-137. Insulin affordability program - record keeping -**
16 **reimbursement - definitions.** (1) AS USED IN THIS SECTION AND SECTION
17 12-280-138, UNLESS THE CONTEXT OTHERWISE REQUIRES:

18 (a) "CONSUMER PRICE INDEX" MEANS THE UNITED STATES
19 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE
20 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL
21 URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR
22 INDEX.

1 (b) "DIVISION OF INSURANCE" MEANS THE DIVISION OF INSURANCE
2 IN THE DEPARTMENT OF REGULATORY AGENCIES, CREATED IN SECTION
3 10-1-103.

4 (c) "MANUFACTURER" MEANS A PERSON:

5 (I) ENGAGED IN THE MANUFACTURING OF INSULIN THAT IS
6 SELF-ADMINISTERED ON AN OUTPATIENT BASIS AND IS AVAILABLE FOR
7 PURCHASE BY RESIDENTS OF THIS STATE; AND

8 (II) THAT HAS ANNUAL GROSS REVENUE OF MORE THAN TWO
9 MILLION DOLLARS FROM THE SALE OF INSULIN IN THIS STATE.

10 (d) "PHARMACY" MEANS A PHARMACY OUTLET REGISTERED
11 PURSUANT TO THIS ARTICLE 280 WHERE PRESCRIPTIONS ARE COMPOUNDED
12 AND DISPENSED.

13 (e) "PROGRAM" MEANS THE INSULIN AFFORDABILITY PROGRAM
14 CREATED IN SUBSECTION (2) OF THIS SECTION.

15 (f) (I) "WHOLESALE ACQUISITION COST" MEANS A
16 MANUFACTURER'S LIST PRICE FOR INSULIN TO WHOLESALERS OR DIRECT
17 PURCHASERS IN THE UNITED STATES FOR THE MOST RECENT MONTH FOR
18 WHICH THE INFORMATION IS REPORTED IN WHOLESALE PRICE GUIDES OR
19 OTHER PUBLICATIONS OF DRUG OR BIOLOGICAL PRICING DATA.

20 (II) "WHOLESALE ACQUISITION COST" DOES NOT INCLUDE PROMPT
21 PAY OR OTHER DISCOUNTS, REBATES, OR REDUCTIONS IN PRICE.

22 (2) EFFECTIVE JANUARY 1, 2022, THE INSULIN AFFORDABILITY
23 PROGRAM IS HEREBY CREATED TO PROVIDE LOW-COST INSULIN TO
24 ELIGIBLE INDIVIDUALS. BY JANUARY 1, 2022, EACH MANUFACTURER
25 SHALL ESTABLISH PROCEDURES TO MAKE INSULIN AVAILABLE IN
26 ACCORDANCE WITH THIS SECTION TO ELIGIBLE INDIVIDUALS WHO NEED
27 ACCESS TO AN AFFORDABLE INSULIN SUPPLY.

1 (3) TO BE ELIGIBLE TO RECEIVE INSULIN UNDER THE PROGRAM, AN
2 INDIVIDUAL MUST:

3 (a) BE A RESIDENT OF COLORADO;

4 (b) NOT BE ELIGIBLE FOR OR ENROLLED IN ASSISTANCE PROVIDED
5 THROUGH THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO
6 6 OF TITLE 25.5, OR THE FEDERAL "HEALTH INSURANCE FOR THE AGED
7 ACT", TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C.
8 SEC. 1395 ET SEQ., AS AMENDED;

9 (c) HAVE A VALID INSULIN PRESCRIPTION OR BE ELIGIBLE FOR AN
10 EMERGENCY SUPPLY AS PROVIDED IN SECTION 12-280-125.5; AND

11 (d) NOT BE ENROLLED IN PRESCRIPTION DRUG COVERAGE THAT
12 LIMITS THE TOTAL AMOUNT OF COST SHARING THAT THE ENROLLEE IS
13 REQUIRED TO PAY FOR A THIRTY-DAY SUPPLY OF INSULIN TO ONE HUNDRED
14 DOLLARS AS DESCRIBED IN SECTION 10-16-151.

15 (4) (a) THE DIVISION OF INSURANCE SHALL DEVELOP AN
16 APPLICATION FORM TO BE USED BY AN INDIVIDUAL WHO IS SEEKING
17 INSULIN UNDER THE PROGRAM. THE APPLICATION FORM MUST REQUIRE
18 THE INDIVIDUAL TO SHOW PROOF THAT THE INDIVIDUAL MEETS THE
19 REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION.

20 (b) THE DIVISION OF INSURANCE AND THE DEPARTMENT OF HEALTH
21 CARE POLICY AND FINANCING SHALL MAKE THE APPLICATION FORM
22 AVAILABLE ON EACH AGENCY'S WEBSITE. THE DIVISION OF INSURANCE
23 SHALL ALSO MAKE THE APPLICATION FORM AVAILABLE TO PHARMACIES,
24 HEALTH-CARE PROVIDERS, AND HEALTH FACILITIES THAT PRESCRIBE OR
25 DISPENSE INSULIN.

26 (5) TO ACCESS INSULIN THROUGH THE PROGRAM, AN INDIVIDUAL
27 MUST PRESENT, AT A PHARMACY, A COMPLETED, SIGNED, AND DATED

1 APPLICATION FORM WITH PROOF OF THE INDIVIDUAL'S COLORADO
2 RESIDENCY. IF THE INDIVIDUAL IS UNDER EIGHTEEN YEARS OF AGE, THE
3 INDIVIDUAL'S PARENT OR LEGAL GUARDIAN MAY PROVIDE THE
4 PHARMACIST WITH PROOF OF RESIDENCY.

5 (6) (a) UPON RECEIPT OF AN INDIVIDUAL'S COMPLETED, SIGNED,
6 AND DATED APPLICATION FORM DEMONSTRATING THAT THE INDIVIDUAL
7 IS ELIGIBLE PURSUANT TO SUBSECTION (3) OF THIS SECTION AND THE
8 INDIVIDUAL'S PROOF OF RESIDENCY, A PHARMACIST SHALL DISPENSE THE
9 PRESCRIBED INSULIN IN AN AMOUNT THAT WILL PROVIDE THE INDIVIDUAL
10 WITH A THIRTY-DAY SUPPLY. AN INDIVIDUAL WHO IS ELIGIBLE TO RECEIVE
11 INSULIN PURSUANT TO THIS SECTION MAY RECEIVE THE INSULIN FOR
12 TWELVE MONTHS.

13 (b) THE PHARMACIST IS ENCOURAGED TO INFORM THE INDIVIDUAL
14 THAT THEY MAY BE ELIGIBLE FOR THE "COLORADO MEDICAL ASSISTANCE
15 ACT", ARTICLES 4 TO 6 OF TITLE 25.5, OR AN AFFORDABLE INSURANCE
16 PRODUCT ON THE STATE-BASED MARKETPLACE.

17 (c) THE PHARMACIST IS ENCOURAGED TO NOTIFY THE INDIVIDUAL
18 OF ANY MANUFACTURER-SPONSORED PROGRAMS THAT ASSIST
19 INDIVIDUALS WHO CANNOT AFFORD THEIR PRESCRIPTION INSULIN.

20 (d) THE PHARMACIST SHALL RETAIN A COPY OF THE APPLICATION
21 FORM SUBMITTED BY THE INDIVIDUAL FOR TWO YEARS AFTER THE DATE
22 THE INSULIN WAS INITIALLY DISPENSED.

23 (7) A PHARMACY THAT DISPENSES INSULIN PURSUANT TO
24 SUBSECTION (6)(a) OF THIS SECTION MAY COLLECT A COPAYMENT FROM
25 THE INDIVIDUAL TO COVER THE PHARMACY'S COSTS OF PROCESSING AND
26 DISPENSING THE INSULIN IN AN AMOUNT NOT TO EXCEED FIFTY DOLLARS
27 FOR EACH THIRTY-DAY SUPPLY OF INSULIN DISPENSED.

1 (8) (a) EXCEPT AS PROVIDED IN SUBSECTION (8)(d) OF THIS
2 SECTION, UNLESS THE MANUFACTURER AGREES TO SEND TO THE
3 PHARMACY A REPLACEMENT SUPPLY OF THE SAME INSULIN DISPENSED IN
4 THE AMOUNT DISPENSED THROUGH THE PROGRAM, THE PHARMACY MAY
5 SUBMIT TO THE MANUFACTURER OF THE DISPENSED INSULIN, DIRECTLY OR
6 THROUGH THE MANUFACTURER'S DELEGATED REPRESENTATIVE,
7 SUBCONTRACTOR, OR OTHER VENDOR, AN ELECTRONIC CLAIM FOR
8 PAYMENT THAT IS MADE IN ACCORDANCE WITH THE NATIONAL COUNCIL
9 FOR PRESCRIPTION DRUG PROGRAMS' STANDARDS FOR ELECTRONIC
10 CLAIMS PROCESSING.

11 (b) BY JANUARY 1, 2022, EACH MANUFACTURER SHALL DEVELOP
12 A PROCESS FOR A PHARMACY TO SUBMIT AN ELECTRONIC CLAIM FOR
13 REIMBURSEMENT AS PROVIDED IN SUBSECTION (8)(a) OF THIS SECTION.

14 (c) IF THE PHARMACY SUBMITS AN ELECTRONIC CLAIM TO THE
15 MANUFACTURER PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION, THE
16 MANUFACTURER OR THE MANUFACTURER'S DELEGATED REPRESENTATIVE,
17 SUBCONTRACTOR, OR OTHER VENDOR SHALL, WITHIN THIRTY DAYS AFTER
18 RECEIPT OF THE CLAIM, EITHER:

19 (I) REIMBURSE THE PHARMACY IN AN AMOUNT THAT COVERS THE
20 DIFFERENCE BETWEEN THE PHARMACY'S WHOLESALE ACQUISITION COST
21 FOR THE INSULIN DISPENSED THROUGH THE PROGRAM AND THE AMOUNT
22 THE INDIVIDUAL PAID FOR THE INSULIN PURSUANT TO SUBSECTION (7) OF
23 THIS SECTION; OR

24 (II) SEND THE PHARMACY A REPLACEMENT SUPPLY OF THE SAME
25 INSULIN IN AN AMOUNT EQUAL TO OR GREATER THAN THE AMOUNT THAT
26 COVERS THE DIFFERENCE BETWEEN THE PHARMACY'S WHOLESALE
27 ACQUISITION COST FOR THE INSULIN DISPENSED THROUGH THE PROGRAM

1 AND THE AMOUNT THE INDIVIDUAL PAID FOR THE INSULIN PURSUANT TO
2 SUBSECTION (7) OF THIS SECTION.

3 (d) A PHARMACY SHALL NOT SUBMIT A CLAIM FOR PAYMENT FOR
4 INSULIN WITH A WHOLESALE ACQUISITION COST OF EIGHT DOLLARS OR
5 LESS PER MILLILITER, ADJUSTED ANNUALLY BASED ON THE ANNUAL
6 PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX.

7 (9) THE DIVISION OF INSURANCE AND THE DEPARTMENT OF HEALTH
8 CARE POLICY AND FINANCING SHALL PROMOTE THE AVAILABILITY OF THE
9 PROGRAM TO COLORADANS. EACH AGENCY MAY SEEK AND ACCEPT GIFTS,
10 GRANTS, AND DONATIONS TO FULFILL THE REQUIREMENTS OF THIS
11 SUBSECTION (9).

12 (10) A MANUFACTURER'S REIMBURSEMENT PURSUANT TO
13 SUBSECTION (8)(b) OF THIS SECTION IS NOT A KICKBACK.

14 (11) A MANUFACTURER THAT FAILS TO COMPLY WITH THE
15 REQUIREMENTS OF THIS SECTION IS SUBJECT TO A FINE OF TEN THOUSAND
16 DOLLARS FOR EACH MONTH OF NONCOMPLIANCE.

17 **12-280-138. Emergency prescription insulin supply - eligibility**
18 **- record keeping - definition.** (1) (a) EFFECTIVE JANUARY 1, 2022, AN
19 INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBSECTION (2) OF THIS
20 SECTION MAY RECEIVE ONE EMERGENCY THIRTY-DAY SUPPLY OF
21 PRESCRIPTION INSULIN WITHIN A TWELVE-MONTH PERIOD. THE PHARMACY
22 MAY CHARGE THE INDIVIDUAL AN AMOUNT NOT TO EXCEED THIRTY-FIVE
23 DOLLARS FOR THE THIRTY-DAY SUPPLY.

24 (b) BY JANUARY 1, 2022, EACH MANUFACTURER SHALL ESTABLISH
25 PROCEDURES TO MAKE INSULIN AVAILABLE IN ACCORDANCE WITH THIS
26 SECTION TO ELIGIBLE INDIVIDUALS WHO NEED ACCESS TO AN EMERGENCY
27 PRESCRIPTION INSULIN SUPPLY.

1 (2) TO BE ELIGIBLE FOR AN EMERGENCY PRESCRIPTION INSULIN
2 SUPPLY, AN INDIVIDUAL MUST:

3 (a) HAVE A VALID PRESCRIPTION FOR INSULIN OR BE ELIGIBLE FOR
4 AN EMERGENCY SUPPLY AS PROVIDED IN SECTION 12-280-125.5;

5 (b) HAVE LESS THAN A SEVEN-DAY SUPPLY OF INSULIN AVAILABLE;

6 (c) BE REQUIRED TO PAY MORE THAN ONE HUNDRED DOLLARS OUT
7 OF POCKET EACH MONTH FOR THE INDIVIDUAL'S INSULIN; AND

8 (d) BE A RESIDENT OF COLORADO.

9 (3) (a) THE DIVISION OF INSURANCE SHALL CREATE AND MAKE
10 AVAILABLE TO THE PUBLIC AN APPLICATION FORM FOR INDIVIDUALS
11 SEEKING AN EMERGENCY PRESCRIPTION INSULIN SUPPLY PURSUANT TO
12 THIS SECTION.

13 (b) AT A MINIMUM, THE APPLICATION FORM MUST REQUIRE THE
14 INDIVIDUAL TO SHOW PROOF THAT THE INDIVIDUAL MEETS THE
15 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

16 (c) EACH PHARMACY IN THE STATE SHALL MAKE THE APPLICATION
17 FORM AVAILABLE AT THE PHARMACY.

18 (4) (a) UPON RECEIPT OF AN INDIVIDUAL'S COMPLETED
19 APPLICATION FORM DEMONSTRATING THAT THE INDIVIDUAL IS ELIGIBLE
20 PURSUANT TO SUBSECTION (2) OF THIS SECTION AND THE INDIVIDUAL'S
21 PROOF OF RESIDENCY, A PHARMACIST SHALL DISPENSE THE PRESCRIBED
22 INSULIN IN AN AMOUNT THAT WILL PROVIDE THE INDIVIDUAL WITH A
23 THIRTY-DAY SUPPLY.

24 (b) IF THE INDIVIDUAL IS UNDER EIGHTEEN YEARS OF AGE, THE
25 INDIVIDUAL'S PARENT OR LEGAL GUARDIAN MAY PROVIDE THE
26 PHARMACIST WITH PROOF OF RESIDENCY.

27 (5) EACH PHARMACY SHALL KEEP THE APPLICATION FORM FOR

1 EACH INDIVIDUAL WHO RECEIVES AN EMERGENCY PRESCRIPTION INSULIN
2 SUPPLY PURSUANT TO THIS SECTION FOR TWO YEARS FOLLOWING THE DATE
3 ON WHICH THE INSULIN WAS DISPENSED.

4 (6) (a) EXCEPT AS PROVIDED IN SUBSECTION (6)(d) OF THIS
5 SECTION, UNLESS THE MANUFACTURER AGREES TO SEND TO THE
6 PHARMACY A REPLACEMENT SUPPLY OF THE SAME INSULIN DISPENSED IN
7 THE AMOUNT DISPENSED THROUGH THE PROGRAM, THE PHARMACY MAY
8 SUBMIT TO THE MANUFACTURER OF THE DISPENSED INSULIN, DIRECTLY OR
9 THROUGH THE MANUFACTURER'S DELEGATED REPRESENTATIVE,
10 SUBCONTRACTOR, OR OTHER VENDOR, AN ELECTRONIC CLAIM FOR
11 PAYMENT THAT IS MADE IN ACCORDANCE WITH THE NATIONAL COUNCIL
12 FOR PRESCRIPTION DRUG PROGRAMS' STANDARDS FOR ELECTRONIC
13 CLAIMS PROCESSING.

14 (b) BY JANUARY 1, 2022, EACH MANUFACTURER SHALL DEVELOP
15 A PROCESS FOR A PHARMACY TO SUBMIT AN ELECTRONIC CLAIM FOR
16 REIMBURSEMENT AS PROVIDED IN SUBSECTION (6)(a) OF THIS SECTION.

17 (c) IF THE PHARMACY SUBMITS AN ELECTRONIC CLAIM TO THE
18 MANUFACTURER PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, THE
19 MANUFACTURER OR THE MANUFACTURER'S DELEGATED REPRESENTATIVE,
20 SUBCONTRACTOR, OR OTHER VENDOR SHALL, WITHIN THIRTY DAYS AFTER
21 RECEIPT OF THE CLAIM, EITHER:

22 (I) REIMBURSE THE PHARMACY IN AN AMOUNT THAT COVERS THE
23 PHARMACY'S WHOLESALE ACQUISITION COST FOR THE INSULIN DISPENSED
24 PURSUANT TO THIS SECTION; OR

25 (II) SEND THE PHARMACY A REPLACEMENT SUPPLY OF THE SAME
26 INSULIN IN AN AMOUNT EQUAL TO OR GREATER THAN THE AMOUNT THAT
27 COVERS THE PHARMACY'S WHOLESALE ACQUISITION COST FOR THE INSULIN

1 DISPENSED PURSUANT TO THIS SECTION.

2 (d) A PHARMACY SHALL NOT SUBMIT A CLAIM FOR PAYMENT FOR
3 INSULIN WITH A WHOLESALE ACQUISITION COST OF EIGHT DOLLARS OR
4 LESS PER MILLILITER, ADJUSTED ANNUALLY BASED ON THE ANNUAL
5 PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX.

6 (7) THE DIVISION OF INSURANCE AND THE DEPARTMENT OF HEALTH
7 CARE POLICY AND FINANCING SHALL PROMOTE THE AVAILABILITY OF THE
8 EMERGENCY PRESCRIPTION INSULIN SUPPLY TO COLORADANS. EACH
9 AGENCY MAY SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS TO
10 FULFILL THE REQUIREMENTS OF THIS SUBSECTION (7).

11 (8) A MANUFACTURER'S REIMBURSEMENT PURSUANT TO
12 SUBSECTION (6)(b) OF THIS SECTION IS NOT A KICKBACK.

13 (9) A MANUFACTURER THAT FAILS TO COMPLY WITH THE
14 REQUIREMENTS OF THIS SECTION IS SUBJECT TO A FINE OF TEN THOUSAND
15 DOLLARS FOR EACH MONTH OF NONCOMPLIANCE.

16 **SECTION 3. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly; except
19 that, if a referendum petition is filed pursuant to section 1 (3) of article V
20 of the state constitution against this act or an item, section, or part of this
21 act within such period, then the act, item, section, or part will not take
22 effect unless approved by the people at the general election to be held in
23 November 2022 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.