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Fiscal Note

Drafting Number: LLS 21-0292 **Date:** May 18, 2021
Prime Sponsors: Rep. Roberts **Bill Status:** House Health and Insurance
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Bill Topic: PRESCRIPTION INSULIN PRICING AND ACCESS

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Diversion
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

The bill creates the Insulin Affordability Program in the Department of Regulatory Agencies, and specifies how an individual can obtain an emergency supply of insulin. It increases state expenditures beginning in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$13,353 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 21-1307

	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	-	-
Expenditures		
Cash Funds	\$13,353	-
Centrally Appropriated	\$4,477	-
Total Expenditures	\$17,830	-
Total FTE	0.2 FTE	-
Diversion		
General Fund	(\$17,830)	-
Cash Funds	(\$17,830)	-
Net Diversion	\$0	-
TABOR Refund	-	-

Summary of Legislation

The bill creates the Insulin Affordability Program in the Division of Insurance in the Department of Regulatory Agencies (DORA). The program allows eligible individuals to receive a 12-month prescription for insulin for no more than a \$50 copay for a 30-day supply and an emergency 30-day supply of insulin once per 12-month period for no more than a \$35 copay. The bill sets the copayment limit that a pharmacy may collect to process and dispense the insulin and specifies how a pharmacy may submit a request for reimbursement or replacement of the insulin from the manufacturer under the program.

The Division of Insurance is required to develop and make available applications for the 12-month prescription and the emergency 30-day supply. The bill also directs DORA and the Department of Health Care Policy and Financing (HCPF) to promote the program to Coloradans and include the applications on their websites, and it allows each department to seek gifts, grants, and donations for this purpose.

The bill clarifies that the existing statutory maximum of \$100 that a covered person is required to pay for insulin through a health coverage plan applies to all covered prescription insulin drugs for the person's entire 30-day supply, regardless of the number of prescriptions that person may have.

Background

House Bill 19-1216 required an insurance carrier providing coverage for prescription insulin drugs to cap the total amount that a covered person is required to pay at an amount not to exceed \$100 per 30-day supply of insulin, regardless of the amount or type of insulin needed to fill the covered person's prescription, and permitted the Insurance Commissioner and the Attorney General to enforce the policy.

State Revenue

The bill potentially increases revenue from to the Division of Insurance Cash Fund from gifts, grants, and donations to DORA or HCPF; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Diversions

The bill diverts \$17,830 from the General Fund in FY 2021-22 only. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

In FY 2021-22, the bill increases cash fund expenditures in DORA. The bill also increases state workload in DORA, HCPF, state-operated pharmacies, and potentially the Department of Law, as detailed below. These impacts are listed in Table 2 and discussed below.

Table 2
Expenditures Under HB 21-1307

	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$13,353	-
Centrally Appropriated Costs ¹	\$4,477	-
Total Cost	\$17,830	-
Total FTE	0.2 FTE	-

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. In FY 2021-22 only, expenditures will increase in DORA by \$17,830 and 0.2 FTE. Because the bill changes insurance requirements between filing deadlines, carriers will have to refile with the department. Expenditures are paid from the Division of Insurance Cash Fund.

Workload will also increase in DORA to develop application forms and to promote the program. This workload can be accomplished within existing appropriations.

Department of Health Care Policy and Financing. Workload will increase in HCPF to update its website and promote the program beginning in FY 2021-22. No change in appropriations is required.

State pharmacies. Workload may increase for state-operated pharmacies in the Department of Corrections and Human Services if the program results in additional prescriptions and to file applications and claims for reimbursement or replacement of insulin supplies. No change in appropriations is required.

Department of Law. A similar policy adopted in Minnesota has resulted in ongoing litigation against the state. If similar litigation were to occur in Colorado regarding this bill, expenditures will increase in the Department of Law. If legal services are required, the increase in expenditures will be addressed through the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$4,477 in FY 2020-21.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$13,353 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies.

Departmental Difference

The Department of Law estimates an increase in expenditures of \$191,412 and 1.0 FTE in FY 2021-22 and \$287,118 and 1.5 FTE in FY 2022-23, assuming that the bill will be litigated, and that the litigation will be significant and complex due to the cost and pricing of insulin. The fiscal note assumes that if litigation results from the bill, existing legal services appropriations should be used first, and then any additional costs should be addressed through the annual budget process once the timing and scope of any litigation is known.

State and Local Government Contacts

Corrections
Human Services
Personnel

Health Care Policy and Financing
Information Technology
Regulatory Agencies

Higher Education
Law