

Suggested allocation: s.1:Note to sections 2-11;
s.13: C.26:2S-34 to 2019/288

SENATE COMMERCE COMMITTEE

AMENDMENTS

to

SENATE, No. 526

(Sponsored by Senators VITALE, POU and SWEENEY)

REPLACE TITLE TO READ:

AN ACT concerning ¹[copayments] cost sharing¹ for insulin, amending P.L.1995, c.331, and supplementing various parts of the statutory law.

INSERT NEW SECTION 1 TO READ:

¹1. (New section) The Legislature finds and declares that:

a. The rising cost of insulin has created an affordability crisis that threatens the health and financial well-being of many diabetes patients.

b. Research by the non-partisan Health Care Cost Institute found that prices for insulin nearly doubled over the five year period from 2012 to 2016 and other studies show that prices for insulin have increased by 700% over the past two decades.

c. The lack of competition, transparency, and accountability in the prescription drug market has allowed manufacturers of insulin to exert extraordinary pricing power.

d. While insulin products have been on the market for almost a century, there is limited competition from lower-cost generics, in part due to aggressive efforts by brand name drug manufacturers to block the entry of generic insulin products into the market.

e. Even consumers with health insurance may face a lack of access to insulin due to the plan design of some health insurance policies.

f. For consumers without insurance, or with insurance coverage not subject to New Jersey State law, access to current and reliable cost information may be helpful to consumers and researchers trying to better understand the true cost of insulin.

g. It is, therefore, in the public interest to protect consumers by mandating insurance coverage cost sharing maximums in New Jersey to improve consumer access to insulin, and to provide for transparency and publication of drug company pricing of insulin.¹

REPLACE SECTION 1 TO READ:

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¹[1.] 2.¹ Section 1 of P.L.1995, c.331 (C.17:48-6n) is amended to read as follows:

1. a. Every individual or group hospital service corporation contract providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall provide benefits to any subscriber or other person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each individual or group hospital service corporation contract shall also provide benefits for expenses incurred for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Benefits provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon diagnosis by a physician or nurse practitioner/clinical nurse specialist of a significant change in the subscriber's or other covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a physician or nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or a registered pharmacist in the State qualified with regard to management education for diabetes by any institution recognized by the board of pharmacy of the State of New Jersey.

c. The benefits required by this section shall be provided to the same extent as for any other sickness under the contract.

d. This section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

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f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.1)

REPLACE SECTION 2 TO READ:

¹[2.] 3.¹ Section 2 of P.L.1995, c.331 (C.17:48A-7l) is amended to read as follows:

2. a. Every individual or group medical service corporation contract providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall provide benefits to any subscriber or other person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each individual or group medical service corporation contract shall also provide benefits for expenses incurred for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Benefits provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon diagnosis by a physician or nurse practitioner/clinical nurse specialist of a significant change in the subscriber's or other covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a physician or nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or a registered pharmacist in the State qualified with regard to management education for diabetes by

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any institution recognized by the board of pharmacy of the State of New Jersey.

c. The benefits required by this section shall be provided to the same extent as for any other sickness under the contract.

d. This section shall apply to all medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.2)

REPLACE SECTION 3 TO READ:

¹[3.] 4.¹ Section 3 of P.L.1995, c.331 (C.17:48E-35.11) is amended to read as follows:

3. a. Every individual or group health service corporation contract providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall provide benefits to any subscriber or other person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each individual or group health service corporation contract shall also provide benefits for expenses incurred for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Benefits provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon the diagnosis by a physician or nurse

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practitioner/clinical nurse specialist of a significant change in the subscriber's or other covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a physician or nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or a registered pharmacist in the State qualified with regard to management education for diabetes by any institution recognized by the board of pharmacy of the State of New Jersey.

c. The benefits required by this section shall be provided to the same extent as for any other sickness under the contract.

d. This section shall apply to all health service corporation contracts in which the health service corporation has reserved the right to change the premium.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.3)

REPLACE SECTION 4 TO READ:

¹[4.] 5.¹ Section 4 of P.L.1995, c.331 (C.17B:26-2.11) is amended to read as follows:

4. a. Every individual health insurance policy providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to Chapter 26 of Title 17B of the New Jersey Statutes or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall provide benefits to any person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or

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coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each individual health insurance policy shall also provide benefits for expenses incurred for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Benefits provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon diagnosis by a physician or nurse practitioner/clinical nurse specialist of a significant change in the covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a physician or nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or a registered pharmacist in the State qualified with regard to management education for diabetes by any institution recognized by the board of pharmacy of the State of New Jersey.

c. The benefits required by this section shall be provided to the same extent as for any other sickness under the policy.

d. This section shall apply to all individual health insurance policies in which the insurer has reserved the right to change the premium.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.4)

REPLACE SECTION 5 TO READ:

¹[5.] 6.¹ Section 5 of P.L.1995, c.331 (C.17B:27-46.1m) is amended to read as follows:

5. a. Every group health insurance policy providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to Chapter 27 of Title 17B of the New Jersey Statutes or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall provide benefits to any person covered thereunder for expenses incurred for the following equipment and supplies for the

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treatment of diabetes, if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹~~[No]~~ Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each group health insurance policy shall also provide benefits for expenses incurred for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Benefits provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon diagnosis by a physician or nurse practitioner/clinical nurse specialist of a significant change in the covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a physician or nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or a registered pharmacist in the State qualified with regard to management education for diabetes by any institution recognized by the board of pharmacy of the State of New Jersey.

c. The benefits required by this section shall be provided to the same extent as for any other sickness under the policy.

d. This section shall apply to all group health insurance policies in which the insurer has reserved the right to change the premium.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.5)

REPLACE SECTION 6 TO READ:

¹[6.] 7.¹ Section 6 of P.L.1995, c.331 (C.26:2J-4.11) is amended to read as follows:

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6. a. Every contract for health care services that is delivered, issued, executed or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or renewal in this State on or after the effective date of this act shall provide health care services to any enrollee or other person covered thereunder for the following equipment and supplies for the treatment of diabetes, if recommended or prescribed by a participating physician or participating nurse practitioner/clinical nurse specialist: blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

b. Each contract shall also provide health care services for diabetes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet. Health care services provided for self-management education and education relating to diet shall be limited to visits medically necessary upon the diagnosis of diabetes; upon diagnosis by a participating physician or participating nurse practitioner/clinical nurse specialist of a significant change in the enrollee's or other covered person's symptoms or conditions which necessitate changes in that person's self-management; and upon determination of a participating physician or participating nurse practitioner/clinical nurse specialist that reeducation or refresher education is necessary. Diabetes self-management education shall be provided by a participating dietitian registered by a nationally recognized professional association of dietitians or a health care professional recognized as a Certified Diabetes Educator by the American Association of Diabetes Educators or, pursuant to section 6 of P.L.1993, c.378 (C.26:2J-4.7), a registered pharmacist in the State qualified with regard to management education for diabetes by any institution recognized by the board of pharmacy of the State of New Jersey.

c. The health care services required by this section shall be provided to the same extent as for any other sickness under the contract.

d. This section shall apply to all contracts in which the health maintenance organization has reserved the right to change the schedule of charges.

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

f. The Commissioner of Banking and Insurance may, in consultation with the Commissioner of Health, pursuant to the

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"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.

(cf: P.L.1995, c.331, s.6)

REPLACE SECTION 7 TO READ:

¹[7.] 8.¹ (New section) An individual health benefits plan that provides hospital and medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et al.), on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), shall provide coverage to any enrollee or other person covered thereunder for insulin for the treatment of diabetes, if recommended or prescribed by a participating physician or participating nurse practitioner/clinical nurse specialist. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

The benefits shall be provided to the same extent as for any other condition under the health benefits plan.

This section shall apply to those health benefits plans in which the carrier has reserved the right to change the premium.

REPLACE SECTION 8 TO READ:

¹[8.] 9.¹ (New section) A small employer health benefits plan that provides hospital and medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), shall provide coverage to any enrollee or other person covered thereunder for insulin for the treatment of diabetes, if recommended or prescribed by a participating physician or participating nurse practitioner/clinical nurse specialist. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

The benefits shall be provided to the same extent as for any other condition under the health benefits plan.

This section shall apply to those health benefits plans in which the carrier has reserved the right to change the premium.

REPLACE SECTION 9 TO READ:

¹[9.] 10.¹ (New section) The State Health Benefits Commission shall ensure that every contract purchased or renewed by the commission on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), shall provide coverage for health care services to any enrollee or other person covered thereunder for insulin for the treatment of diabetes, if recommended or prescribed

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by a participating physician or participating nurse practitioner/clinical nurse specialist. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

REPLACE SECTION 10 TO READ:

¹[10.] 11.¹ (New section) The School Employees' Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) that provides hospital and medical expense benefits shall provide health care services to any enrollee or other person covered thereunder for insulin for the treatment of diabetes, if recommended or prescribed by a participating physician or participating nurse practitioner/clinical nurse specialist. ¹[No] Coverage for the purchase of insulin shall not be subject to any deductible, and no¹ copayment ¹or coinsurance¹ for the purchase of insulin shall exceed ¹[\$100] \$50¹ per 30 day supply.

INSERT NEW SECTION 12 TO READ:

¹12. (New section) Every manufacturer of an insulin product shall submit, not later than January 1, 2021, and annually thereafter, a report to the Commissioner of Banking and Insurance containing the following information:

- a. name of the insulin products currently manufactured;
- b. identification of whether the insulin products are brand name or generic drug products;
- c. total sales of insulin products to New Jersey consumers quantified in total units and total revenue;
- d. the effective date and amounts of any changes in the wholesale acquisition cost or other list prices for insulin during the prior calendar year;
- e. aggregate, company-level research and development costs for insulin over the prior calendar year;
- f. the name of each of the manufacturer's insulin products that were approved by the federal Food and Drug Administration in the previous five calendar years;
- g. the name of each of the manufacturer's insulin products that lost patent exclusivity in the United States in the previous five calendar years; and
- h. a statement of rationale regarding the factor or factors that caused the increase in the wholesale acquisition cost or list price increase for insulin.¹

REPLACE SECTION 11 TO READ:

¹[11. This act] 13. Sections 2 through 4, 6, and 7 of this act shall take effect on the 180th day next following the date of enactment and shall apply to plans issued or renewed on or after January 1 of the next calendar year; sections 5, 8, and 9 shall take effect on the 270th

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day next following the date of enactment and shall apply to plans issued or renewed after January 1 of the next calendar year; sections 10 and 11¹ shall take effect on the 90th day next following ¹the date of¹ enactment ¹and shall apply to contracts purchased on or after that date; and section 12 shall take place immediately¹ .

REPLACE SYNOPSIS TO READ:

Provides that purchase of insulin is not subject to deductible; requires health insurers to limit copayments and coinsurance for insulin; requires insulin manufacturers to submit report to Commissioner of Banking and Insurance.

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