

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0082.02 Yelana Love x2295

HOUSE BILL 19-1216

HOUSE SPONSORSHIP

Roberts, McCluskie

SENATE SPONSORSHIP

Donovan and Priola,

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

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

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 requires a carrier to reduce the cost sharing a covered person is required to pay for prescription insulin drugs by an amount equal to the greater of 51% of the total rebates received by the carrier per prescription insulin drug including price protection rebates or an amount that ensures cost sharing will not exceed 125% of the carrier's cost for the

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.

prescription insulin drug, subject to a maximum out-of-pocket cost of \$100 per one-month supply of insulin.

The bill requires the department of law to investigate the pricing of prescription insulin drugs and submit a report of its findings to the governor, the commissioner of insurance, and the judiciary committees of the senate and house of representatives.

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

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

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

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

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

14 (d) Insulin prices rose by forty-five percent between 2014 and
15 2017, and over the last fourteen years, the price of insulin has risen by
16 five hundred fifty-five percent, adjusted for inflation;

17 (e) One in four type 1 diabetics have reported insulin underuse
18 due to the high cost of insulin; and

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

22 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-148 as

1 follows:

2 **10-16-148. Cost sharing in prescription insulin drugs - limits**
3 **- confidentiality of rebate information.** (1) AS USED IN THIS SECTION,
4 UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "COST SHARING" MEANS A **COPAYMENT** OR COINSURANCE
6 AMOUNT IMPOSED ON A COVERED PERSON FOR A COVERED PRESCRIPTION
7 DRUG IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE
8 COVERED PERSON'S HEALTH COVERAGE PLAN.

9 [REDACTED]
10 (b) "PRESCRIPTION INSULIN DRUG" MEANS A PRESCRIPTION DRUG,
11 AS DEFINED IN SECTION 12-42.5-102 (34), THAT CONTAINS INSULIN AND IS
12 USED TO TREAT DIABETES.

13 [REDACTED]
14 [REDACTED]
15 (2) A CARRIER THAT PROVIDES COVERAGE AND, PURSUANT TO THE
16 TERMS OF A HEALTH COVERAGE PLAN THE CARRIER OFFERS, IMPOSES A
17 COST-SHARING AMOUNT FOR PRESCRIPTION INSULIN DRUGS SHALL CAP THE
18 TOTAL AMOUNT OF COST SHARING THAT A COVERED PERSON IS REQUIRED
19 TO PAY, INCLUDING [REDACTED] COST-SHARING AMOUNTS CHARGED ONCE A
20 DEDUCTIBLE IS MET, AT AN AMOUNT NOT TO EXCEED **ONE HUNDRED**
21 **DOLLARS PER THIRTY-DAY SUPPLY OF INSULIN, REGARDLESS OF THE**
22 **AMOUNT OR TYPE OF INSULIN NEEDED TO FILL THE COVERED PERSON'S**
23 **PRESCRIPTION.**

24 (3) NOTHING IN THIS SECTION PREVENTS A CARRIER FROM
25 REDUCING A COVERED PERSON'S COST SHARING BY AN AMOUNT GREATER
26 THAN THE AMOUNT SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

27 [REDACTED]

1 (4) THE COMMISSIONER MAY USE ANY OF THE COMMISSIONER'S
2 ENFORCEMENT POWERS TO OBTAIN A CARRIER'S COMPLIANCE WITH THIS
3 SECTION.

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

6 **24-31-110. Department of law - investigate prescription insulin**
7 **drug pricing - report - repeal.** (1) THE DEPARTMENT OF LAW SHALL
8 INVESTIGATE PRICING OF PRESCRIPTION INSULIN DRUGS, AS DEFINED IN
9 SECTION 10-16-148 (1)(b), MADE AVAILABLE TO COLORADO CONSUMERS
10 TO ENSURE ADEQUATE CONSUMER PROTECTIONS IN PRICING OF
11 PRESCRIPTION INSULIN DRUGS AND WHETHER ADDITIONAL CONSUMER
12 PROTECTIONS ARE NEEDED.

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

22 (b) IF NECESSARY TO FULFILL THE REPORTING REQUIREMENTS OF
23 THIS SECTION, THE ATTORNEY GENERAL MAY ISSUE A CIVIL INVESTIGATIVE
24 DEMAND REQUIRING A STATE DEPARTMENT; CARRIER, AS DEFINED IN
25 SECTION 10-16-102 (8); PHARMACY BENEFIT MANAGEMENT FIRM, AS
26 DEFINED IN SECTION 10-16-102 (49); OR MANUFACTURER OF PRESCRIPTION
27 INSULIN DRUGS THAT ARE MADE AVAILABLE IN COLORADO, TO FURNISH

1 MATERIAL, ANSWERS, DATA, OR OTHER RELEVANT INFORMATION.

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

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

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

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

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

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

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

25 **SECTION 4. Appropriation.** For the 2019-20 state fiscal year,
26 \$26,054 is appropriated to the department of regulatory agencies for use
27 by the division of insurance. This appropriation is from the division of

1 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
2 on an assumption that the division will require an additional 0.4 FTE. To
3 implement this act, the division may use this appropriation for personal
4 services.

5 **SECTION 5. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
7 the expiration of the ninety-day period after final adjournment of the
8 general assembly (August 2, 2019, if adjournment sine die is on May 3,
9 2019); except that, if a referendum petition is filed pursuant to section 1
10 (3) of article V of the state constitution against this act or an item, section,
11 or part of this act within such period, then the act, item, section, or part
12 will not take effect unless approved by the people at the general election
13 to be held in November 2020 and, in such case, will take effect on the
14 date of the official declaration of the vote thereon by the governor.

15 (2) This act applies to health coverage plans issued or renewed on
16 or after January 1, 2020, or the date of the official declaration of the vote
17 by the governor, whichever is later.