

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

INTRODUCED

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

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE A PATIENT'S COSTS OF**
102 **PRESCRIPTION INSULIN DRUGS.**

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 prescription insulin drug, subject to a maximum out-of-pocket cost of

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.

\$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.

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 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** 10-16-148 as follows:

1 **10-16-148. Cost sharing in prescription insulin drugs - limits**

2 **- confidentiality of rebate information.** (1) AS USED IN THIS SECTION,
3 UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

8 (b) "DRUG MANUFACTURER" OR "MANUFACTURER" MEANS A
9 MANUFACTURER OF PRESCRIPTION INSULIN DRUGS THAT ARE MADE
10 AVAILABLE IN COLORADO.

11 (c) "PRESCRIPTION INSULIN DRUG" MEANS A PRESCRIPTION DRUG,
12 AS DEFINED IN SECTION 12-42.5-102 (34), THAT CONTAINS INSULIN AND IS
13 USED TO TREAT DIABETES.

14 (d) "PRICE PROTECTION REBATE" MEANS A NEGOTIATED PRICE
15 CONCESSION THAT ACCRUES DIRECTLY OR INDIRECTLY TO A CARRIER OR
16 OTHER PARTY ON BEHALF OF THE CARRIER IN THE EVENT OF AN INCREASE
17 IN THE WHOLESALE ACQUISITION COST OF A PRESCRIPTION INSULIN DRUG
18 ABOVE A SPECIFIED THRESHOLD.

19 (e) "REBATE" MEANS:

20 (I) A NEGOTIATED PRICE CONCESSION, INCLUDING A BASE REBATE
21 AND A PERFORMANCE-BASED REBATE BUT EXCLUDING A PRICE
22 PROTECTION REBATE, THAT MAY ACCRUE DIRECTLY OR INDIRECTLY TO A
23 CARRIER DURING THE COVERAGE YEAR FROM A MANUFACTURER,
24 DISPENSING PHARMACY, OR OTHER PARTY TO THE TRANSACTION; OR

25 (II) A PRICE CONCESSION GIVEN TO A CARRIER THAT SERVES TO
26 REDUCE THE CARRIER'S PRESCRIPTION INSULIN DRUG LIABILITIES FOR THE
27 COVERAGE YEAR.

1 (2) (a) SUBJECT TO SUBSECTION (2)(b) OF THIS SECTION, FOR EACH
2 OF ITS HEALTH COVERAGE PLANS, A CARRIER SHALL REDUCE THE LEVEL OF
3 COST SHARING THAT IT WOULD OTHERWISE CHARGE A COVERED PERSON
4 FOR A PRESCRIPTION INSULIN DRUG BY AN AMOUNT EQUAL TO THE
5 GREATER OF:

6 (I) FIFTY-ONE PERCENT OF THE TOTAL REBATES RECEIVED BY THE
7 CARRIER PER PRESCRIPTION INSULIN DRUG INCLUDING PRICE PROTECTION
8 REBATES; OR

9 (II) AN AMOUNT THAT ENSURES THAT THE COVERED PERSON'S
10 COST SHARING WILL NOT EXCEED ONE HUNDRED TWENTY-FIVE PERCENT
11 OF THE CARRIER'S COST FOR THE PRESCRIPTION INSULIN DRUG.

12 (b) A CARRIER THAT PROVIDES COVERAGE AND, PURSUANT TO THE
13 TERMS OF A HEALTH COVERAGE PLAN THE CARRIER OFFERS, IMPOSES A
14 COST-SHARING AMOUNT FOR PRESCRIPTION INSULIN DRUGS SHALL CAP THE
15 TOTAL AMOUNT OF COST SHARING THAT A COVERED PERSON IS REQUIRED
16 TO PAY, INCLUDING DEDUCTIBLE PAYMENTS AND COST-SHARING AMOUNTS
17 CHARGED ONCE A DEDUCTIBLE IS MET, AT AN AMOUNT NOT TO EXCEED
18 ONE HUNDRED DOLLARS PER ONE-MONTH SUPPLY OF INSULIN.

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

22 (4) IN COMPLYING WITH THIS SECTION, A CARRIER OR ITS AGENTS
23 SHALL NOT PUBLISH OR OTHERWISE REVEAL INFORMATION REGARDING THE
24 ACTUAL AMOUNT OF REBATES A CARRIER RECEIVES ON A
25 PRODUCT-SPECIFIC, MANUFACTURER-SPECIFIC, OR PHARMACY-SPECIFIC
26 BASIS. THE INFORMATION IS PROTECTED AS A TRADE SECRET, IS NOT A
27 PUBLIC RECORD OPEN TO INSPECTION AS SPECIFIED IN SECTION 24-72-204

1 (3)(a)(IV), AND SHALL NOT BE DISCLOSED DIRECTLY OR INDIRECTLY. A
2 CARRIER SHALL REQUIRE ANY VENDOR OR THIRD PARTY THAT PERFORMS
3 HEALTH CARE OR ADMINISTRATIVE SERVICES ON BEHALF OF THE CARRIER
4 AND THAT MAY RECEIVE OR HAVE ACCESS TO REBATE INFORMATION TO
5 COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS SPECIFIED IN THIS
6 SUBSECTION (4).

7 (5) THE COMMISSIONER MAY USE ANY OF THE COMMISSIONER'S
8 ENFORCEMENT POWERS TO OBTAIN A CARRIER'S COMPLIANCE WITH THIS
9 SECTION.

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

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

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

1 (b) IF NECESSARY TO FULFILL THE REPORTING REQUIREMENTS OF
2 THIS SECTION, THE ATTORNEY GENERAL MAY ISSUE A CIVIL INVESTIGATIVE
3 DEMAND REQUIRING A STATE DEPARTMENT; CARRIER, AS DEFINED IN
4 SECTION 10-16-102 (8); PHARMACY BENEFIT MANAGEMENT FIRM, AS
5 DEFINED IN SECTION 10-16-102 (49); OR DRUG MANUFACTURER, AS
6 DEFINED IN SECTION 10-16-148 (1)(b), TO FURNISH MATERIAL, ANSWERS,
7 DATA, OR OTHER RELEVANT INFORMATION.

8 (3) A PERSON OR BUSINESS SHALL NOT BE COMPELLED TO PROVIDE
9 PROPRIETARY INFORMATION OR TRADE SECRETS.

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

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

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

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

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

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

4 **SECTION 4. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 2, 2019, if adjournment sine die is on May 3,
8 2019); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2020 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

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