

Representative Norman K. Thurston proposes the following substitute bill:

INSULIN ACCESS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Deidre M. Henderson

6	Cosponsors:	Marie H. Poulson	Mike Winder
7	Marsha Judkins	Raymond P. Ward	
	Lee B. Perry		

LONG TITLE

General Description:

This bill creates mechanisms to increase Utahns' access to affordable insulin.

Highlighted Provisions:

This bill:

- ▶ creates an incentive for health benefit plans to reduce the required copayments for insulin;
- ▶ directs the Public Employees' Benefit and Insurance Program to purchase insulin at discounted prices and to create a program that allows Utahns to purchase the discounted insulin;
- ▶ increases the number of days for which an insulin prescription can be refilled; and
- ▶ authorizes a pharmacist to refill an expired insulin prescription.

Money Appropriated in this Bill:

None

Other Special Clauses:



24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **31A-22-626**, as last amended by Laws of Utah 2015, Chapter 258

28 **58-17b-609**, as last amended by Laws of Utah 2005, Chapter 160

29 ENACTS:

30 **49-20-420**, Utah Code Annotated 1953

31 **58-17b-608.2**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **31A-22-626** is amended to read:

35 **31A-22-626. Coverage of diabetes.**

36 (1) As used in this section[, "diabetes"]:

37 (a) "Diabetes" includes individuals with:

38 ~~[(a)]~~ (i) complete insulin deficiency or type 1 diabetes;

39 ~~[(b)]~~ (ii) insulin resistant with partial insulin deficiency or type 2 diabetes; ~~[and] or~~

40 ~~[(c)]~~ (iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

41 (b) "Lowest tier" means:

42 (i) the lowest cost tier of a health benefit plan; or

43 (ii) the lowest cost-sharing level of a high deductible health plan that preserves the
44 enrollee's ability to claim tax exempt contributions from the enrollee's health savings account
45 under federal laws and regulations.

46 (c) "Therapy category" means a type of insulin that is distinct from other types of
47 insulin due to a difference in onset, peak time, or duration.

48 (2) The commissioner shall establish, by rule, minimum standards of coverage for
49 diabetes for accident and health insurance policies that provide a health insurance benefit
50 before July 1, 2000.

51 (3) In making rules under Subsection (2), the commissioner shall require rules:

52 (a) with durational limits, amount limits, deductibles, and coinsurance for the treatment
53 of diabetes equitable or identical to coverage provided for the treatment of other illnesses or
54 diseases; and

55 (b) that provide coverage for:

56 (i) diabetes self-management training and patient management, including medical
57 nutrition therapy as defined by rule, provided by an accredited or certified program and referred
58 by an attending physician within the plan and consistent with the health plan provisions for
59 self-management education:

60 (A) recognized by the federal Centers for Medicare and Medicaid Services; or

61 (B) certified by the Department of Health; and

62 (ii) the following equipment, supplies, and appliances to treat diabetes when medically
63 necessary:

64 (A) blood glucose monitors, including those for the legally blind;

65 (B) test strips for blood glucose monitors;

66 (C) visual reading urine and ketone strips;

67 (D) lancets and lancet devices;

68 (E) insulin;

69 (F) injection aides, including those adaptable to meet the needs of the legally blind, and
70 infusion delivery systems;

71 (G) syringes;

72 (H) prescriptive oral agents for controlling blood glucose levels; and

73 (I) glucagon kits.

74 (4) Beginning January 1, 2021, a health benefit plan that provides coverage for insulin

75 shall:

76 (a) cap the total amount that an insured is required to pay for insulin at an amount not
77 to exceed \$30 per prescription of a 30-day supply of insulin;

78 (b) apply the cap to an insured regardless of whether the insured has met the plan's
79 deductible; and

80 (c) apply the cap to at least one insulin in each therapy category.

81 (5) Subsection (4) does not apply to a health plan that:

82 (a) covers at least one insulin in each therapy category under the lowest tier of drugs;

83 and

84 (b) does not require an insured to meet a deductible before the plan will cover insulin
85 at the lowest tier.

86 (6) A health plan described in Subsection (5) may condition coverage of insulin under
87 the lowest tier on the insured's participation in wellness-related activities for diabetes.

88 (7) The department may issue a waiver from the requirements described in Subsection
89 (4) to a health benefit plan if the health benefit plan can demonstrate to the department that the
90 plan provides an insured with substantially similar consumer cost reductions to those that result
91 from Subsections (4) and (5).

92 (8) The department shall adjust the cap described in Subsection (4)(a) for inflation
93 based on the seasonally adjusted consumer price index for all urban consumers as published by
94 the Bureau of Labor Statistics of the United States Department of Labor.

95 (9) A health benefit plan is not required to reimburse participants in the insulin
96 purchasing program described in Section [49-20-420](#).

97 Section 2. Section **49-20-420** is enacted to read:

98 **49-20-420. Purchasing of insulin.**

99 (1) As used in this section:

100 (a) "Diabetes" means:

101 (i) complete insulin deficiency or type 1 diabetes;

102 (ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or

103 (iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

104 (b) "Discount program" means a process developed by the program that allows
105 participants to purchase insulin at a discounted, post-rebate rate.

106 (c) "Individual with diabetes" means an individual who has been diagnosed with
107 diabetes and who uses insulin to treat diabetes.

108 (d) "Insulin" means a prescription drug that contains insulin.

109 (e) "Participant" means a resident of Utah who:

110 (i) uses insulin to treat diabetes;

111 (ii) does not receive health coverage under the program; and

112 (iii) enrolls in the discount program.

113 (f) "Public employee" means the same as that term is defined in Section [34-32-1.1](#).

114 (g) "Prescription drug" means the same as that term is defined in Section [58-17b-102](#).

115 (2) Notwithstanding Subsection [49-20-201](#)(1), and for the purpose of the insulin
116 discount program only, the program shall offer an insulin discount program to participants.

117 (3) The discount program described in Subsection (2) shall:

118 (a) provide a participant with a card or electronic document that identifies the

119 participant as eligible for the discount;

120 (b) provide a participant with information about pharmacies that will honor the

121 discount;

122 (c) allow a participant to purchase insulin at a discounted, post-rebate price; and

123 (d) provide a participant with instructions to pursue a reimbursement of the purchase

124 price from the participant's health insurer.

125 (4) The discount program shall charge a price for insulin that allows the program to

126 retain only enough of a portion of the manufacturer rebate to make the state risk pool whole for

127 providing insulin to Utahns at a lower cost and a lower point of sale.

128 Section 3. Section **58-17b-608.2** is enacted to read:

129 **58-17b-608.2. Insulin prescriptions.**

130 (1) As used in this section, "insulin" means a prescription drug that contains insulin.

131 (2) Even if a prescription for insulin is written for a supply for 30 days, a pharmacist

132 may dispense an amount up to a supply for 90 days.

133 (3) If a prescription for insulin expires, a pharmacist may dispense a refill for the
134 expired prescription, based on the prescriber's instructions:

135 (a) in an amount up to a supply for 90 days; and

136 (b) if the prescription expired no earlier than six months before the date the pharmacist

137 dispenses the refill.

138 (4) A pharmacist may dispense insulin for an expired prescription described in

139 Subsection (3) no more than one time per expired prescription.

140 (5) When filling a prescription for insulin, a pharmacist may dispense the

141 pharmaceutical equivalent of the insulin prescribed.

142 (6) A pharmacist may dispense the therapeutic equivalent when filling a prescription

143 for:

144 (a) a glucometer;

145 (b) diabetes test strips;

146 (c) lancets; or

147 (d) syringes.

148 (7) Before a pharmacist may dispense insulin under Subsection (2) or (3), the
149 pharmacist shall:

150 (a) attempt to contact the prescribing practitioner to inform the prescribing practitioner
151 that the pharmacist intends to dispense insulin under Subsection (2) or (3); and

152 (b) notify the patient of the outcome of the attempt described in Subsection (7)(a).

153 (8) Within 30 days after the day on which the pharmacist dispenses insulin under
154 Subsection (2) or (3), the pharmacist shall inform the prescribing practitioner of:

155 (a) the amount of insulin dispensed; and

156 (b) the type of insulin dispensed.

157 Section 4. Section **58-17b-609** is amended to read:

158 **58-17b-609. Limitation on prescriptions and refills -- Controlled Substances Act**
159 **not affected -- Legend drugs.**

160 (1) Except as provided in [~~Section~~] Sections 58-16a-102 and 58-17b-608.2, a
161 prescription for any prescription drug or device may not be dispensed after one year from the
162 date it was initiated except as otherwise provided in Chapter 37, Utah Controlled Substances
163 Act.

164 (2) [~~A~~] Except as provided in Section 58-17b-608.2, a prescription authorized to be
165 refilled may not be refilled after one year from the original issue date.

166 (3) A practitioner may not be prohibited from issuing a new prescription for the same
167 drug orally, in writing, or by electronic transmission.

168 (4) Nothing in this chapter affects Chapter 37, Utah Controlled Substances Act.

169 (5) A prescription for a legend drug written by a licensed prescribing practitioner in
170 another state may be filled or refilled by a pharmacist or pharmacy intern in this state if the
171 pharmacist or pharmacy intern verifies that the prescription is valid.

172 Section 5. **Effective date.**

173 This bill takes effect on May 12, 2020, except that the amendments to Sections
174 31A-22-626 and 49-20-420 take effect on January 1, 2021.