

Introduced by Senator Wiener
(Principal coauthor: Senator Rubio)
(Coauthors: Assembly Members Arambula and Bains)

December 3, 2024

An act to amend Section 1367.51 of the Health and Safety Code, and to amend Section 10176.61 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as introduced, Wiener. Health care coverage: insulin.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or disability insurance policy issued, amended, delivered, or renewed on or after January 1, 2000, that covers prescription benefits to include coverage for insulin if it is determined to be medically necessary.

This bill would generally prohibit a health care service plan contract or disability insurance policy issued, amended, delivered, or renewed on or after January 1, 2026, from imposing a copayment of more than \$35 for a 30-day supply of an insulin prescription drug or imposing a deductible, coinsurance, or any other cost sharing on an insulin prescription drug, except as specified. On and after January 1, 2026, the bill would prohibit a health care service plan or disability insurer from imposing step therapy protocols as a prerequisite to authorizing coverage of insulin. Because a willful violation of these provisions by

a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Approximately 263,000 Californians are diagnosed with
4 type 1 diabetes each year. Approximately 4,037,000 Californian
5 adults have diabetes.

6 (2) Every Californian with type 1 diabetes, and many with type
7 2 diabetes, rely on daily doses of insulin to survive.

8 (3) Insulin prices have nearly tripled, creating financial hardships
9 for people who rely on it to survive.

10 (4) One in four people using insulin have reported insulin
11 underuse due to the high cost of insulin.

12 (5) Imposing a deductible on insulin, and requiring individuals
13 to meet that deductible, creates a financial burden that presents a
14 barrier to accessing insulin.

15 (6) Diabetes is the seventh leading cause of death, and it is a
16 leading cause of disabling and life-threatening complications,
17 including heart disease, stroke, kidney failure, amputation of the
18 lower extremities, and new cases of blindness among adults.

19 (7) Studies have shown that managing diabetes can prevent
20 complications and medical emergencies associated with diabetes
21 that result in emergency room visits, hospitalizations, and costly
22 treatments.

23 (b) Therefore, it is the intent of the Legislature to enact
24 legislation on important policies to reduce the costs for Californians
25 with diabetes to obtain lifesaving and life-sustaining insulin.

26 SEC. 2. Section 1367.51 of the Health and Safety Code is
27 amended to read:

1 1367.51. (a) ~~Every~~A health care service plan contract, except
2 a specialized health care service plan contract, that is issued,
3 amended, delivered, or renewed on or after January 1, 2000, and
4 that covers hospital, medical, or surgical expenses shall include
5 coverage for the following equipment and supplies for the
6 management and treatment of insulin-using diabetes,
7 non-insulin-using diabetes, and gestational diabetes as medically
8 necessary, even if the items are available without a prescription:

- 9 (1) Blood glucose monitors and blood glucose testing strips.
- 10 (2) Blood glucose monitors designed to assist the visually
11 impaired.
- 12 (3) Insulin pumps and all related necessary supplies.
- 13 (4) Ketone urine testing strips.
- 14 (5) Lancets and lancet puncture devices.
- 15 (6) Pen delivery systems for the administration of insulin.
- 16 (7) Podiatric devices to prevent or treat diabetes-related
17 complications.
- 18 (8) Insulin syringes.
- 19 (9) Visual aids, excluding eyewear, to assist the visually
20 impaired with proper dosing of insulin.

21 (b) ~~Every~~A health care service plan contract, except a
22 specialized health care service plan contract, that is issued,
23 amended, delivered, or renewed on or after January 1, 2000, that
24 covers prescription benefits shall include coverage for the following
25 prescription items if the items are determined to be medically
26 necessary:

- 27 (1) Insulin.
- 28 (2) Prescriptive medications for the treatment of diabetes.
- 29 (3) Glucagon.

30 (c) The copayments and deductibles for the benefits specified
31 in subdivisions (a) and (b) shall not exceed those established for
32 similar benefits within the given plan.

33 (d) (1) *Notwithstanding subdivision (c), a health care service*
34 *plan contract that is issued, amended, or renewed on or after*
35 *January 1, 2026, shall not impose a copayment on an insulin*
36 *prescription drug that exceeds thirty-five dollars (\$35) for a 30-day*
37 *supply, and shall not impose a deductible, coinsurance, or any*
38 *other cost sharing on an insulin prescription drug.*

39 (2) *Notwithstanding paragraph (1), if a health care service plan*
40 *contract is a high deductible health plan, as defined in Section*

1 223(c)(2) of Title 26 of the United States Code, the contract shall
2 not impose a deductible, coinsurance, or any other cost sharing
3 on an insulin prescription drug, unless not applying the deductible,
4 coinsurance, or other cost sharing to an insulin prescription drug
5 would conflict with federal requirements for high deductible health
6 plans.

7 (3) When the state has the capacity to label or produce an
8 insulin prescription drug, the deductible and copayment limitations
9 in paragraph (1) shall also apply to an insulin prescription drug,
10 or any therapeutic equivalent insulin prescription drug, that is
11 labeled or produced by the state.

12 (4) For purposes of this subdivision, “insulin prescription drug”
13 means a prescription drug that contains insulin and is used to
14 control blood glucose levels to treat diabetes.

15 (e) Consistent with this section, on and after January 1, 2026,
16 a health care service plan shall not impose step therapy protocols
17 as a prerequisite to authorizing coverage of insulin. For purposes
18 of this section, “step therapy protocol” means a protocol or
19 program that establishes the specific sequence in which
20 prescription drugs for a specified condition, including
21 self-administered drugs and physician-administered drugs, are
22 medically appropriate for a particular enrollee and are covered
23 under a health care service plan contract.

24 ~~(d) Every~~

25 (f) A health care service plan shall provide coverage for diabetes
26 outpatient self-management training, education, and medical
27 nutrition therapy necessary to enable an enrollee to properly use
28 the equipment, supplies, and medications set forth in subdivisions
29 (a) and (b), and additional diabetes outpatient self-management
30 training, education, and medical nutrition therapy upon the
31 direction or prescription of those services by the enrollee’s
32 participating physician. If a plan delegates outpatient
33 self-management training to contracting providers, the plan shall
34 require contracting providers to ensure that diabetes outpatient
35 self-management training, education, and medical nutrition therapy
36 are provided by appropriately licensed or registered health care
37 professionals.

38 ~~(e)~~

39 (g) The diabetes outpatient self-management training, education,
40 and medical nutrition therapy services identified in subdivision

1 ~~(d)~~ (f) shall be provided by appropriately licensed or registered
 2 health care professionals as prescribed by a participating health
 3 care professional legally authorized to prescribe the service. These
 4 benefits shall include, but not be limited to, instruction that will
 5 enable diabetic patients and their families to gain an understanding
 6 of the diabetic disease process, and the daily management of
 7 diabetic therapy, in order to thereby avoid frequent hospitalizations
 8 and complications.

9 ~~(f)~~
 10 (h) The copayments for the benefits specified in subdivision ~~(d)~~
 11 (f) shall not exceed those established for physician office visits by
 12 the plan.

13 ~~(g)~~ Every
 14 (i) A health care service plan governed by this section shall
 15 disclose the benefits covered pursuant to this section in the plan's
 16 evidence of coverage and disclosure forms.

17 ~~(h)~~
 18 (j) A health care service plan ~~may~~ shall not reduce or eliminate
 19 coverage as a result of ~~the requirements of~~ this section.

20 ~~(i) Nothing in this section shall be construed to~~
 21 (k) This section does not deny or restrict in any way the
 22 department's authority to ensure plan compliance with this chapter
 23 ~~when~~ if a plan provides coverage for prescription drugs.

24 SEC. 3. Section 10176.61 of the Insurance Code is amended
 25 to read:

26 10176.61. (a) ~~Every~~ An insurer issuing, amending, delivering,
 27 or renewing a disability insurance policy on or after January 1,
 28 2000, that covers hospital, medical, or surgical expenses shall
 29 include coverage for the following equipment and supplies for the
 30 management and treatment of insulin-using diabetes,
 31 non-insulin-using diabetes, and gestational diabetes as medically
 32 necessary, even if the items are available without a prescription:

- 33 (1) Blood glucose monitors and blood glucose testing strips.
- 34 (2) Blood glucose monitors designed to assist the visually
- 35 impaired.
- 36 (3) Insulin pumps and all related necessary supplies.
- 37 (4) Ketone urine testing strips.
- 38 (5) Lancets and lancet puncture devices.
- 39 (6) Pen delivery systems for the administration of insulin.

1 (7) Podiatric devices to prevent or treat diabetes-related
2 complications.

3 (8) Insulin syringes.

4 (9) Visual aids, excluding eyewear, to assist the visually
5 impaired with proper dosing of insulin.

6 (b) ~~Every~~ An insurer issuing, amending, delivering, or renewing
7 a disability insurance policy on or after January 1, 2000, that covers
8 prescription benefits shall include coverage for the following
9 prescription items if the items are determined to be medically
10 necessary:

11 (1) Insulin.

12 (2) Prescriptive medications for the treatment of diabetes.

13 (3) Glucagon.

14 (c) The coinsurances and deductibles for the benefits specified
15 in subdivisions (a) and (b) shall not exceed those established for
16 similar benefits within the given policy.

17 (d) (1) *Notwithstanding subdivision (c), a disability insurance*
18 *policy that is issued, amended, or renewed on or after January 1,*
19 *2026, shall not impose a copayment on an insulin prescription*
20 *drug that exceeds thirty-five dollars (\$35) for a 30-day supply,*
21 *and shall not impose a deductible, coinsurance, or any other cost*
22 *sharing on an insulin prescription drug.*

23 (2) *Notwithstanding paragraph (1), if a disability insurance*
24 *policy is a high deductible health plan, as defined in Section*
25 *223(c)(2) of Title 26 of the United States Code, the policy shall*
26 *not impose a deductible, coinsurance, or any other cost sharing*
27 *on an insulin prescription drug, unless not applying the deductible,*
28 *coinsurance, or other cost sharing to an insulin prescription drug*
29 *would conflict with federal requirements for high deductible health*
30 *plans.*

31 (3) *When the state has the capacity to label or produce an*
32 *insulin prescription drug, the deductible and copayment limitations*
33 *in paragraph (1) shall also apply to an insulin prescription drug,*
34 *or any therapeutic equivalent insulin prescription drug, that is*
35 *labeled or produced by the state.*

36 (4) *For purposes of this subdivision, “insulin prescription drug”*
37 *means a prescription drug that contains insulin and is used to*
38 *control blood glucose levels to treat diabetes.*

39 (e) *Consistent with this section, on and after January 1, 2026,*
40 *a disability insurer shall not impose step therapy protocols as a*

1 *prerequisite to authorizing coverage of insulin. For purposes of*
2 *this section, “step therapy protocol” means a protocol or program*
3 *that establishes the specific sequence in which prescription drugs*
4 *for a specified condition, including self-administered drugs and*
5 *physician-administered drugs, are medically appropriate for a*
6 *particular insured and are covered under a disability insurance*
7 *policy.*

8 ~~(d)~~ Every

9 (f) An insurer shall provide coverage for diabetes outpatient
10 self-management training, education, and medical nutrition therapy
11 necessary to enable an insured to properly use the equipment,
12 supplies, and medications set forth in subdivisions (a) and (b) and
13 additional diabetes outpatient self-management training, education,
14 and medical nutrition therapy upon the direction or prescription
15 of those services by the insured’s participating physician. If an
16 insurer delegates outpatient self-management training to contracting
17 providers, the insurer shall require contracting providers to ensure
18 that diabetes outpatient self-management training, education, and
19 medical nutrition therapy are provided by appropriately licensed
20 or registered health care professionals.

21 ~~(e)~~

22 (g) The diabetes outpatient self-management training, education,
23 and medical nutrition therapy services identified in subdivision
24 ~~(d)~~ (f) shall be provided by appropriately licensed or registered
25 health care professionals as prescribed by a health care professional
26 legally authorized to prescribe the services.

27 ~~(f)~~

28 (h) The coinsurances and deductibles for the benefits specified
29 in subdivision ~~(d)~~ (f) shall not exceed those established for
30 physician office visits by the insurer.

31 ~~(g)~~

32 (i) Every disability insurer governed by this section shall
33 disclose the benefits covered pursuant to this section in the insurer’s
34 evidence of coverage and disclosure forms.

35 ~~(h)~~

36 (j) An insurer ~~may~~ shall not reduce or eliminate coverage as a
37 result of the requirements of this section.

38 ~~(i)~~

39 (k) This section does not apply to vision-only, dental-only,
40 accident-only, specified disease, hospital indemnity, Medicare

1 supplement, long-term care, or disability income insurance, except
2 that for accident-only, specified disease, and hospital indemnity
3 insurance coverage, benefits under this section only apply to the
4 extent that the benefits are covered under the general terms and
5 conditions that apply to all other benefits under the policy. ~~Nothing~~
6 ~~in this section may be construed as imposing~~ *This section does not*
7 *impose* a new benefit mandate on accident-only, specified disease,
8 or hospital indemnity insurance.

9 SEC. 4. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.