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**HOUSE BILL NO. 240**

Offered January 12, 2022

Prefiled January 10, 2022

A *BILL to amend and reenact § 38.2-3407.15:5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2818.3, relating to the state health insurance plan; insulin discount program; health insurance; cost sharing for insulin.*

Patrons—Adams, D.M., Avoli, Clark, Convirs-Fowler, Delaney, Hayes, Hope, Jenkins, Kory, Maldonado, McQuinn, Plum, Price, Rasoul, Roem, Shin, Simon, Simonds, Subramanyam, Watts and Willett; Senator: Morrissey

Referred to Committee on Commerce and Energy

**Be it enacted by the General Assembly of Virginia:**

1. That § 38.2-3407.15:5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2818.3 as follows:

**§ 2.2-2818.3. Insulin discount program.**

A. As used in this section:

"Carrier" has the same meaning as provided in § 38.2-3407.15.

"Department" means the Department of Human Resource Management.

"Participant" means a resident of the Commonwealth who (i) uses insulin to treat diabetes, (ii) does not receive health coverage under the plan, and (iii) enrolls in the discount program.

"Rebate" has the same meaning as provided in § 38.2-3465.

"State plan" means the plan for providing health insurance coverage for state employees and retired state employees established by the Department pursuant to § 2.2-2818.

B. Notwithstanding the provisions of § 2.2-2818 limiting the state plan to state employees and retired state employees, the state plan shall offer an insulin discount program that allows participants to purchase insulin at a discounted, post-rebate price.

C. The insulin discount program shall:

1. Allow a participant to purchase insulin at a discounted, post-rebate price;

2. Provide a participant with a card or electronic document that identifies the participant as eligible for the discount;

3. Provide a participant with information about pharmacies that will honor the discount; and

4. Provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's carrier.

D. The discount program shall charge a price for insulin that allows the program to retain only enough of any rebate for the insulin to make the state risk pool whole for providing discounted insulin to participants.

**§ 38.2-3407.15:5. Limit on cost-sharing payments for prescription insulin drugs.**

A. As used in this section:

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Cost-sharing payment" means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

"Covered person" means a policyholder, subscriber, participant, or other individual covered by a health plan.

"Health plan" means any health benefit plan, as defined in § 38.2-3438, that provides coverage for a prescription insulin drug.

"High deductible health plan" has the same meaning as provided in 26 U.S.C. § 223.

"Lowest tier" means (i) the lowest cost tier of a health plan, (ii) the lowest cost-sharing level of a high deductible health plan that preserves the covered person's ability to claim tax exempt contributions from the covered person's health savings account under federal law, or (iii) a discount or other cost-savings program that has the effect of equating cost-sharing of insulin to the health plan's lowest tier.

"Pharmacy benefits manager" means an entity that engages in the administration or management of prescription drug benefits provided by a carrier for the benefit of its covered persons.

"Prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Therapy category" means a type of insulin that is distinct from other types of insulin due to a

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57 *difference in onset, peak time, or duration.*

58 B. Every health plan offered by a carrier shall set the cost-sharing payment that a covered person is  
59 required to pay for a covered prescription insulin drug at an amount that does not exceed \$50 per  
60 30-day supply of the prescription insulin drug, regardless of the amount or type of insulin needed to fill  
61 the covered person's prescription.

62 C. 1. *Every health plan offered by a carrier shall set the cost-sharing payment that a covered person*  
63 *is required to pay for at least one prescription insulin drug in each therapy category at an amount that*  
64 *does not exceed \$30 per 30-day supply of the prescription insulin drug.*

65 2. *The provisions of subdivision C 1 shall not apply to a health plan that:*

66 a. *Covers at least one prescription insulin drug for the treatment of diabetes in each therapy*  
67 *category under the lowest tier of drugs and does not require cost sharing other than the cost sharing*  
68 *payment before the plan will cover insulin at the lowest tier; or*

69 b. *Guarantees that a covered person is not required to pay more out of pocket for a prescription*  
70 *insulin drug than the covered person would pay to obtain the prescription insulin drug through the*  
71 *discount program established in § 2.2-2818 and caps the total amount that a covered person is required*  
72 *to pay for at least one prescription insulin drug in each therapy category at an amount not to exceed*  
73 *\$100 per 30-day supply of the prescription insulin drug.*

74 3. *A health plan that provides coverage of a prescription insulin drug with the cost-sharing limits*  
75 *established in this subsection may condition the cost-sharing limits on (i) the covered person's*  
76 *participation in a wellness-related activities for diabetes, (ii) purchasing the prescription insulin drug at*  
77 *an in-network pharmacy, or (iii) choosing a prescription insulin drug from the lowest tiers of the health*  
78 *plan's formulary.*

79 D. Nothing in this section shall prevent a carrier from setting a covered person's cost-sharing  
80 payment for a covered prescription insulin drug at an amount that is less than the maximum amount  
81 permitted pursuant to subsection B or C.

82 ~~D. E.~~ No provider contract between a carrier or its pharmacy benefits manager and a pharmacy or its  
83 contracting agent shall contain a provision (i) authorizing the carrier's pharmacy benefits manager or the  
84 pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a  
85 cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of  
86 the cost-sharing payment for the covered prescription insulin drug established by the carrier pursuant to  
87 subsection B or C.

88 ~~E. F.~~ This section shall apply with respect to health plans and provider contracts entered into,  
89 amended, extended, or renewed on or after January 1, 2021. *However, the provisions of subsection B*  
90 *shall apply to with respect to health plans and provider contracts entered into, amended, extended, or*  
91 *renewed prior to January 1, 2023. The provisions of subsection C shall apply with respect to health*  
92 *plans and provider contracts entered into, amended, extended, or renewed on or after January 1, 2023.*

93 ~~F. G.~~ Pursuant to the authority granted by § 38.2-223, the Commission may adopt such rules and  
94 regulations as it may deem necessary to implement this section.