

Introduced by

Senators Mathern, Dever

Representatives Hanson, McLeod, Pyle, Schauer

1 A BILL for an Act to create and enact section 26.1-36-09.16 of the North Dakota Century Code,  
2 relating to accident and health insurance coverage of diabetes drugs and supplies; to amend  
3 and reenact section 26.1-36.6-03 of the North Dakota Century Code, relating to public  
4 employees self-insurance health plans; to provide for application; to provide an effective date;  
5 and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Section 26.1-36-09.16 of the North Dakota Century Code is created and  
8 enacted as follows:

9 **26.1-36-09.16. Insulin drug and supply cost-sharing limitations and formulary**  
10 **limitations.**

11 1. As used in this section:

12 a. "Insulin drug" means a prescription drug that contains insulin and is used to treat  
13 a form of diabetes mellitus. The term does not include an insulin pump, an  
14 electronic insulin-administering smart pen, or a continuous glucose monitor, or  
15 supplies needed specifically for the use of such electronic devices. The term  
16 includes insulin in the following categories:

17 (1) Rapid-acting insulin;

18 (2) Short-acting insulin;

19 (3) Intermediate-acting insulin;

20 (4) Long-acting insulin;

21 (5) Premixed insulin product;

22 (6) Premixed insulin/GLP-1 RA product; and

23 (7) Concentrated human regular insulin.

- 1           b. "Medical supplies for insulin dosing and administration" means supplies needed  
2           for proper insulin dosing, as well as supplies needed to detect or address medical  
3           emergencies in an individual using insulin to manage diabetes mellitus. The term  
4           does not include an insulin pump, an electronic insulin-administering smart pen,  
5           or a continuous glucose monitor, or supplies needed specifically for the use of  
6           such electronic devices. The term includes:
- 7           (1) Blood glucose meters;  
8           (2) Blood glucose test strips;  
9           (3) Lancing devices and lancets;  
10          (4) Ketone testing supplies, such as urine strips, blood ketone meters, and  
11          blood ketone strips;  
12          (5) Glucagon, injectable or nasal forms;  
13          (6) Insulin pen needles; and  
14          (7) Insulin syringes.
- 15          c. "Pharmacy or distributor" means a pharmacy or medical supply company, or  
16          other medication or medical supply distributor filling a covered individual's  
17          prescriptions.
- 18          d. "Policy" means an accident and health insurance policy, contract, or evidence of  
19          coverage on a group, individual, blanket, franchise, or association basis.
- 20      2. An insurer may not deliver, issue, execute, or renew a policy that provides coverage  
21      for an insulin drug or medical supplies for insulin dosing and administration unless the  
22      policy complies with this section.
- 23      3. The policy must provide cost-sharing for a thirty-day supply of:
- 24          a. Prescribed insulin drugs which may not exceed twenty-five dollars per pharmacy  
25          or distributor, regardless of the quantity or type of insulin drug used to fill the  
26          covered individual's prescription needs.
- 27          b. Prescribed medical supplies for insulin dosing and administration, the total of  
28          which may not exceed twenty-five dollars per pharmacy or distributor, regardless  
29          of the quantity or manufacturer of supplies used to fill the covered individual's  
30          prescription needs.

- 1       4. A policy may not allow a pharmacy benefits manager or the pharmacy or distributor to  
2       charge, require the pharmacy or distributor to collect, or require a covered individual to  
3       make, a cost-sharing payment for a covered insulin drug or medical supplies for insulin  
4       dosing and administration in an amount that exceeds the amount of the cost-sharing  
5       payment for the prescribed insulin drugs or prescribed medical supplies for insulin  
6       dosing and administration under subsection 3.
- 7       5. A policy may not allow for the use of a formulary to determine coverage of an insulin  
8       drug or medical supplies for insulin dosing and administration.
- 9       6. Subsection 3 does not require a policy to implement cost-sharing and does not  
10      prevent the implementation of cost-sharing in an amount less than the amount  
11      specified under subsection 3. Subsection 3 does not limit cost-sharing on an insulin  
12      pump, an electronic insulin-administering smart pen, or a continuous glucose monitor.  
13      This section does not limit whether a policy classifies an insulin pump, an electronic  
14      insulin-administering smart pen, or a continuous glucose monitor as a drug or as a  
15      medical device or supply.

16       **SECTION 2. AMENDMENT.** Section 26.1-36.6-03 of the North Dakota Century Code is  
17      amended and reenacted as follows:

18       **26.1-36.6-03. Self-insurance health plans - Requirements.**

- 19       1. The following policy provisions apply to a self-insurance health plan or to the  
20       administrative services only or third-party administrator, and are subject to the  
21       jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10,  
22       26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17,  
23       26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39,  
24       26.1-36-41, 26.1-36-44, and 26.1-36-46.
- 25       2. The following health benefit provisions applicable to a group accident and health  
26       insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are  
27       subject to the jurisdiction of the commissioner: 26.1-36-06, 26.1-36-06.1, 26.1-36-07,  
28       26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2, 26.1-36-09.3,  
29       26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9, 26.1-36-09.10,  
30       26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14, 26.1-36-09.15,

1            26.1-36-09.16, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22,  
2            26.1-36-23.1, and 26.1-36-43.

3            **SECTION 3. APPLICATION.** This Act applies to a policy delivered, issued, executed, or  
4 renewed after June 30, 2023.

5            **SECTION 4. EFFECTIVE DATE.** This Act becomes effective July 1, 2023.

6            **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.