SENATE THIRD READING
SB 40 (Wiener and Wahab)
As Amended July 17, 2025
Majority vote

SUMMARY

Prohibits health plan and health insurers from imposing a copayment, coinsurance, deductible, or any other cost sharing on an insulin prescription drug that exceeds $35 for a 30-day supply, on a phased-in basis and subject to limitations in the individual and small group market. Prohibits health plans and health insurers from imposing step therapy as a prerequisite to authorizing coverage of insulin, except if at least one insulin in each drug type is covered without step therapy (step therapy means a process that specifies the sequence in which different prescription drugs for a given medical condition and that are medically appropriate for a particular patient are prescribed).

COMMENTS

Inflation Reduction Act (IRA). H.R. 5376 of 2022, known as the Inflation Reduction Act, amended federal Medicare to prohibit, effective January 1, 2023, Medicare beneficiaries with a Medicare Part D coverage (for prescription drugs) or a Medicare Advantage plan that covers prescription drugs (MA-PD), from paying more than $35 for a 1-month supply of each covered insulin product. This cap applies regardless of whether the beneficiary has met their deductible. For people who use an insulin pump and get insulin through Medicare Part B, a similar $35 monthly copayment limit began on July 1, 2023. During plan year 2026 and each subsequent plan year, the out-of-pocket cost is the lowest of the following three amounts:

1) $35;

2) 25% of the ″maximum fair price″ (the ″maximum fair price″ is a new concept created by the IRA′s Medicare drug price negotiation program is determined by the Centers for Medicare & Medicaid Services (CMS) after negotiations with drug manufacturers; or,

3) 25% of the negotiated price (this is 25% of the price that the insurance plan and manufacturer agree to, which may be less than the list price due to rebates or discounts).

According to the Author
This bill caps the out-of-pocket cost patients pay for insulin, as 25 states have already done, at $35 for a 30-day supply. Beyond that co-pay amount, plans are prohibited from cost-sharing for prescription insulin drugs, and from pursuing step therapy for insulin. The author argues it makes no sense that people with diabetes in states like West Virginia can access affordable insulin while Californians are stuck with higher prices. When basic life necessities like medication become unaffordable in blue states, working people pay the price as they are forced to choose between risking bankruptcy or risking their lives by rationing essential medication. The author concludes that California should lead the nation in making people′s lives better and more affordable, and we shouldn′t ask people to wait any longer for affordable medications.

Arguments in Support
This bill is sponsored by the American Diabetes Association (ADA), which argues it is imperative to provide access to affordable insulin, as its survey found that roughly a quarter of

respondents indicate the cost of insulin affected filling their prescription or usage of insulin. Further, a study in the *Journal of American Medical Association* regarding the impact of insulin affordability on those too young to access Medicare′s $35 copay cap found that 20% of those under age 65 reported rationing insulin. The ramifications of inadequate access to insulin can lead to severe health complications, increased hospitalizations, and even preventable deaths. From 2009 to 2015, hospitalizations for diabetic ketoacidosis increased from 24.4 to 43.5 per 1000 adults with diabetes in those aged 18 to 44 years. The study went on to state that ″these findings are consistent with previous work examining the prevalence of cost-related insulin rationing but extend existing research by characterizing differences within adults younger than 65 years and assessing ineligibility for insulin co-pay limits introduced by the Inflation Reduction Act.″ The ADA states that, for countless Californians, the cost of insulin remains an obstacle, particularly now with rising inflation on basic necessities. ADA concludes this bill provides a solution through the $35 copay cap to help Californians with diabetes as they await CalRx biosimilar insulins.

Arguments in Opposition
The California Association of Health Plans (CAHP) and the Association of California Life and Health Insurance Companies (ACLHIC) write in opposition to 17 health insurance mandate bills including this one. The opposition writes these bills will increase costs, reduce choice and competition and further incentivize some employers and individuals to avoid state regulation by seeking other coverage options. Benefit mandates impose a one-size-fits all approach to medical care and benefit design without consideration for consumer choice. The opposition strongly urges the Legislature to pause any new mandate bills given the uncertainty regarding what benefits may or may not be covered in the Essential Health Benefits (EHB) benchmark plan. The opposition also indicates that adding new mandates at a time when the Office of Health Care Affordability (OHCA) is working to curb health care costs could disrupt those efforts and make it difficult for health care entities to meet the OCHA spending target. The opposition urges the Legislature to consider the cumulative impacts of these mandates on premiums and access to coverage, and they believe that benefit mandates stifle the use of innovative, evidence-based medicine.

FISCAL COMMENTS

According to the Assembly Appropriations committee:

1) The Department of Insurance estimates costs of $6,000 in fiscal year 2025-26 for state administration (Insurance Fund).

2) The Department of Managed Health Care anticipates minor and absorbable costs.

3) The California Public Employees Retirement System (CalPERS) anticipates no fiscal impact.

4) The California Health Benefits Review Program (CHBRP) estimates this bill will increase total health insurance premiums paid by employers and enrollees by $10.38 million and decrease enrollee expenses by $8.23 million, for a total net increase in annual expenditures of $2.15 million (0.001%).

VOTES

SENATE FLOOR: 37-0-3

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Cervantes, Limón, Reyes

ASM HEALTH: 16-0-0
YES: Bonta, Chen, Addis, Aguiar-Curry, Caloza, Carrillo, Flora, Mark González, Krell, Patel, Patterson, Celeste Rodriguez, Sanchez, Schiavo, Sharp-Collins, Stefani

ASM APPROPRIATIONS: 15-0-0
YES: Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Jeff Gonzalez, Solache, Ta, Tangipa

UPDATED

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