

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1355 (Delegate Cox, *et al.*)
 Health and Government Operations

Health Insurance - Prescription Insulin Drugs - Limits on Copayment and
 Coinsurance

This bill requires an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) that provides coverage for prescription drugs and devices (including coverage provided through a pharmacy benefits manager) to limit the amount a covered individual is required to pay in copayments or coinsurance for a covered prescription insulin drug to no more than \$30 for a 30-day supply, regardless of the amount or type of insulin needed to fill the covered individual’s prescription. Uncodified language requires the Prescription Drug Affordability Board (PDAB) to conduct a specified cost review and report specified findings and recommendations to the General Assembly by January 1, 2024. **The bill takes effect June 1, 2022; insurance provisions apply to all policies, contracts, and health benefits plans issued, delivered, or renewed in the State on or after January 1, 2023.**

Fiscal Summary

State Effect: No effect in FY 2022. Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) in FY 2023 from the \$125 rate and form filing fee; review of filings can be handled with existing MIA resources. PDAB special fund expenditures increase by \$41,700 in FY 2023 and \$20,800 in FY 2024 to conduct the cost review. No material effect on the State Employee and Retiree Health and Welfare Benefits Program, as discussed below.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	-	\$0	\$0	\$0	\$0
SF Expenditure	\$41,700	\$20,800	\$0	\$0	\$0
Net Effect	(\$41,700)	(\$20,800)	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential increase in health insurance premiums for local governments that purchase fully insured plans due to the limitation on allowable cost sharing. Revenues are not affected.

Small Business Effect: Likely minimal; health insurance premiums may increase in the small group market due to the limitation on allowable cost sharing.

Analysis

Bill Summary: A carrier may set the amount a covered individual is required to pay in copayments or coinsurance to an amount that is less than \$30 per 30-day supply. A contract between a carrier (or a pharmacy benefits manager) and a pharmacy (or the pharmacy's contracting agent) may not authorize a party to the contract to charge a covered individual, require a pharmacy to collect from a covered individual, or require a covered individual to pay an amount greater than \$30 per 30-day supply.

PDAB must conduct a cost review to determine whether the pricing of prescription insulin drug products has led or will lead to affordability challenges for the State health care system or high out-of-pocket costs for patients. PDAB must submit a report on the findings and recommendations from the cost review by January 1, 2024. The report must include (1) a summary of insulin drug product pricing practices and how the pricing practices impact the pricing of health insurance plans; (2) public policy recommendations, including any recommended legislation, to control and prevent overpricing of prescription insulin drug products made available to consumers in the State; and (3) any additional information PDAB finds relevant from its cost review of prescription insulin drug products.

Current Law: Under Maryland law, there are more than 50 mandated health insurance benefits that certain carriers must provide to their enrollees. This includes coverage for all medically appropriate and necessary diabetes equipment, supplies, and outpatient self-management training and educational services, including medical nutrition therapy. A carrier may not impose a deductible, copayment, or coinsurance on diabetes test strips, except for a high deductible health plan.

A carrier may not impose a copayment or coinsurance requirement on a prescription drug prescribed to treat diabetes, HIV, or AIDS that exceeds \$150 for up to a 30-day supply of the drug. This limit must be annually adjusted for inflation, as specified.

The federal Patient Protection and Affordable Care Act requires nongrandfathered health plans to cover 10 essential health benefits, which include prescription drugs. Diabetes equipment such as glucose monitors and insulin pumps are covered under durable medical equipment coverage for insulin-using beneficiaries, while diabetes supplies (insulin

syringes, needles, and test strips) are covered under the prescription coverage for insulin-using beneficiaries.

Chapter 692 of 2019 established PDAB. The board must make specified determinations, collect data, and identify specified prescription drug products that may cause affordability issues; may conduct a cost review of each identified drug product; and, if warranted, must draft a plan of action that includes the criteria to set upper payment limits for prescription drug products. The plan of action must be approved either by the Legislative Policy Committee or by the Governor and the Attorney General. If approved, the board may set upper payment limits for specified populations beginning January 1, 2022.

State Expenditures: The Department of Budget and Management advises that copayments under the State Employee and Retiree Health and Welfare Benefits Program for preferred and generic prescription drugs do not exceed \$30 for a 30-day supply of insulin. Any impact on the program under the bill is anticipated to be minimal and absorbable.

PDAB advises that, to conduct the required cost review, a contractor is required. Thus, PDAB special fund expenditures increase by an estimated total of \$62,500, likely incurred as \$41,666 in fiscal 2023 and \$20,834 in fiscal 2024. The cost review, and any findings and recommendations, must be submitted to the General Assembly by January 1, 2024.

Additional Information

Prior Introductions: HB 134 of 2020, a similar bill with a higher limit on cost sharing, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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