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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, Delaney, Hayes, Hope, Jenkins, Kory, Maldonado, Plum, Rasoul, Roem, Shin, Simonds, Subramanyam and Watts

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 difference in onset, peak time, or duration.*

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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.