

116TH CONGRESS
2D SESSION

H. R. 7722

To limit the price of insulin drugs accessible for participants, beneficiaries, and enrollees enrolled in group or individual health insurance coverage and group health plans and for uninsured individuals who have diabetes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2020

Mr. FORTENBERRY (for himself and Ms. CRAIG) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To limit the price of insulin drugs accessible for participants, beneficiaries, and enrollees enrolled in group or individual health insurance coverage and group health plans and for uninsured individuals who have diabetes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Matt’s Act”.

1 **SEC. 2. INSULIN NET PRICE PROTECTION.**

2 (a) PUBLISHING OF NET PRICE BY MANUFACTUR-
3 ERS.—

4 (1) IN GENERAL.—A manufacturer of an insu-
5 lin drug shall, on a quarterly basis, publish on the
6 internet website of such manufacturer the average
7 net price of each such insulin drug for the preceding
8 calendar quarter.

9 (2) ENFORCEMENT.—In the case that a manu-
10 facturer of an insulin drug fails to comply with para-
11 graph (1), a Federal agency or program may not
12 make payment for such insulin drug of such until
13 such manufacturer complies with such paragraph.

14 (b) NET PRICE FOR INSULIN DRUGS FOR CERTAIN
15 INDIVIDUALS.—

16 (1) APPLICATION TO PHSA PLANS.—Subpart 1
17 of part A of the Public Health Service Act (42
18 U.S.C. 300gg et seq.) is amended by adding at the
19 end the following new section:

20 **“SEC. 2730. NET PRICE FOR INSULIN DRUGS.**

21 “(a) AVAILABILITY OF NET PRICE.—With respect to
22 plan years beginning on and after January 1, 2021, a
23 health insurance issuer offering group or individual health
24 insurance coverage shall provide a participant, beneficiary,
25 or enrollee who has diabetes access to an insulin drug at—

26 “(1) the lesser of—

1 “(A) the 10 percent of the average net
 2 price for such drug published pursuant to sec-
 3 tion 2(a) of Matt’s Act, plus the average
 4 charges for distribution and dispensing de-
 5 scribed in subsection (c) for such drug;

6 “(B) the coinsurance amount for an insu-
 7 lin drug under the health insurance coverage
 8 under which such an individual is a participant,
 9 beneficiary, or enrollee would otherwise be re-
 10 sponsible notwithstanding this section; or

11 “(C) \$20; or

12 “(2) \$0, in the case such a participant, bene-
 13 ficiary, or enrollee is enrolled in a high deductible
 14 health plan (as defined in section 223(c)(2) of the
 15 Internal Revenue Code of 1986).

16 “(b) WAIVER OF DEDUCTIBLE.—In applying sub-
 17 section (a), such a participant, beneficiary, or enrollee
 18 shall have access to an insulin drug without regard to a
 19 deductible.

20 “(c) CHARGES FOR DISTRIBUTING AND DIS-
 21 PENSING.—

22 “(1) IN GENERAL.—For purposes of subsection
 23 (a), charges for distribution and dispensing de-
 24 scribed in this subsection—

1 “(A) are charges associated with the trans-
2 actions, with respect to an insulin drug, be-
3 tween wholesalers, distributors, retailers, and
4 pharmacies; and

5 “(B) may not exceed 10 percent of the av-
6 erage net price of such an insulin drug.

7 “(2) REPORTING REQUIREMENT FOR PLANS.—

8 In the case that a health insurance issuer offering
9 group or individual health insurance coverage
10 charges a participant, beneficiary, or enrollee for av-
11 erage charges for distribution and dispensing pursu-
12 ant to subsection (a)(1), the health insurance issuer
13 shall submit to the Inspector General of the Depart-
14 ment of Health and Human Services information
15 with respect to such charges and the amount of the
16 charges.

17 “(3) REPORT TO CONGRESS BY INSPECTOR
18 GENERAL.—Beginning January 1, 2022, and annu-
19 ally thereafter, the Inspector General shall review
20 the charges described in paragraph (2) and submit
21 to Congress a report on such on review.

22 “(d) DEFINITIONS.—In this section:

23 “(1) INSULIN.—

24 “(A) IN GENERAL.—The term ‘insulin’
25 means a prescription drug containing insulin

1 that is approved by the Food and Drug Admin-
2 istration to improve glycemic control in patients
3 with diabetes mellitus (and may include any
4 medical supplies included with such drug or as-
5 sociated with the injection of such drug).

6 “(B) EXCLUSION.—Such term does not in-
7 clude any medical supplies that provides for the
8 monitoring of insulin levels.

9 “(2) LIST PRICE.—The term ‘list price’ has the
10 meaning given the term wholesale acquisition cost in
11 section 1847A(c)(6)(B) of the Social Security Act.

12 “(3) NET PRICE.—The term ‘net price’ means,
13 with respect to prescription drug coverage under
14 group or individual health insurance coverage of-
15 fered by a health insurance issuer, the list price of
16 the drug net all rebates, discounts, concessions, and
17 other adjustments applied to the cost paid by the
18 health insurance issuer, or by any other entity that
19 provides pharmacy benefit management services
20 under a contract with any such health insurance
21 issuer, regardless of whether such adjustments are
22 prospective or retrospective.

23 “(4) PRESCRIPTION DRUG.—The term ‘pre-
24 scription drug’ mean a drug, as defined in section
25 201(g) of the Federal Food, Drug, and Cosmetic

1 Act, that is subject to section 503(b)(1) of such
2 Act.”.

3 (2) APPLICATION TO ERISA PLANS.—Subpart A
4 of part 7 of the Employee Retirement Income Secu-
5 rity Act of 1974 (29 U.S.C. 1185 et seq.) is amend-
6 ed by adding at the end the following new section
7 (and amending the table of contents accordingly):

8 **“SEC. 704. NET PRICE FOR INSULIN DRUGS.**

9 “(a) AVAILABILITY OF NET PRICE.—With respect to
10 plan years beginning on and after January 1, 2021, a
11 group health plan shall provide a participant, beneficiary,
12 or enrollee who has diabetes access to an insulin drug at—

13 “(1) the lesser of—

14 “(A) the 10 percent of the average net
15 price for such drug published pursuant to sec-
16 tion 2(a) of Matt’s Act, plus the average
17 charges for distribution and dispensing de-
18 scribed in subsection (c) for such drug;

19 “(B) the coinsurance amount for an insu-
20 lin drug under the group health plan which
21 such an individual is a participant, beneficiary,
22 or enrollee would otherwise be responsible not-
23 withstanding this section; or

24 “(C) \$20; or

1 “(2) \$0, in the case such a participant, bene-
 2 ficiary, or enrollee is enrolled in a high deductible
 3 health plan (as defined in section 223(c)(2) of the
 4 Internal Revenue Code of 1986).

5 “(b) WAIVER OF DEDUCTIBLE.—In applying sub-
 6 section (a), such a participant, beneficiary, or enrollee
 7 shall have access to an insulin drug without regard to a
 8 deductible.

9 “(c) CHARGES FOR DISTRIBUTING AND DIS-
 10 PENSING.—

11 “(1) IN GENERAL.—For purposes of subsection
 12 (a), charges for distribution and dispensing de-
 13 scribed in this subsection—

14 “(A) are charges associated with the trans-
 15 actions, with respect to an insulin drug, be-
 16 tween wholesalers, distributors, retailers, and
 17 pharmacies; and

18 “(B) may not exceed 10 percent of the av-
 19 erage net price of such an insulin drug.

20 “(2) REPORTING REQUIREMENT FOR PLANS.—

21 In the case that a group health plan charges a par-
 22 ticipant, beneficiary, or enrollee for average charges
 23 for distribution and dispensing pursuant to sub-
 24 section (a)(1), the group health plan shall submit to
 25 the Inspector General of the Department of Health

1 and Human Services information with respect to
2 such charges and the amount of the charges.

3 “(3) REPORT TO CONGRESS BY INSPECTOR
4 GENERAL.—Beginning January 1, 2022, and annu-
5 ally thereafter, the Inspector General shall review
6 the charges described in paragraph (2) and submit
7 to Congress a report on such on review.

8 “(d) DEFINITIONS.—In this section:

9 “(1) INSULIN.—

10 “(A) IN GENERAL.—The term ‘insulin’
11 means a prescription drug containing insulin
12 that is approved by the Food and Drug Admin-
13 istration to improve glycemic control in patients
14 with diabetes mellitus (and may include any
15 medical supplies included with such drug or as-
16 sociated with the injection of such drug).

17 “(B) EXCLUSION.—Such term does not in-
18 clude any medical supplies that provides for the
19 monitoring of insulin levels.

20 “(2) LIST PRICE.—The term ‘list price’ has the
21 meaning given the term wholesale acquisition cost in
22 section 1847A(c)(6)(B) of the Social Security Act.

23 “(3) NET PRICE.—The term ‘net price’ means,
24 with respect to prescription drug coverage under a
25 group health plan, the list price of the drug net all

1 rebates, discounts, concessions, and other adjust-
2 ments applied to the cost paid by the group health
3 plan, or by any other entity that provides pharmacy
4 benefit management services under a contract with
5 any such group health plan, regardless of whether
6 such adjustments are prospective or retrospective.

7 “(4) PRESCRIPTION DRUG.—The term ‘pre-
8 scription drug’ mean a drug, as defined in section
9 201(g) of the Federal Food, Drug, and Cosmetic
10 Act, that is subject to section 503(b)(1) of such
11 Act.”.

12 (3) UNINSURED INDIVIDUALS.—

13 (A) IN GENERAL.—Beginning on and after
14 January 1, 2021, a pharmacy shall provide to
15 any individual who has diabetes and is not en-
16 rolled in any health plan access to an insulin
17 drug at the average net price for such drug
18 published pursuant to subsection (a), plus the
19 average charges for the distribution and dis-
20 pensing described in subparagraph (C) for such
21 drug.

22 (B) REVIEW OF CHARGES.—Beginning
23 January 1, 2022, and annually thereafter, the
24 Inspector General of the Department of Health
25 and Human Services shall review the amount of

1 charges paid by an individual described in sub-
2 paragraph (A) and submit to Congress a report
3 on such review.

4 (C) CHARGES FOR DISTRIBUTING AND DIS-
5 PENSING.—For purposes of subparagraph (A),
6 charges for distribution and dispensing de-
7 scribed in this subsection—

8 (i) are charges associated with the
9 transactions, with respect to an insulin
10 drug, between wholesalers, distributors, re-
11 tailers, and pharmacies; and

12 (ii) may not exceed 10 percent of the
13 average net price of such an insulin drug.

14 (D) DEFINITIONS.—In this section:

15 (i) INSULIN.—

16 (I) IN GENERAL.—The term “in-
17 sulin” means a prescription drug con-
18 taining insulin that is approved by the
19 Food and Drug Administration to im-
20 prove glycemic control in patients with
21 diabetes mellitus (and may include
22 any medical supplies included with
23 such drug or associated with the in-
24 jection of such drug).

1 (II) EXCLUSION.—Such term
2 does not include any medical supplies
3 that provides for the monitoring of in-
4 sulin levels.

5 (ii) LIST PRICE.—The term “list
6 price” has the meaning given the term
7 wholesale acquisition cost in section
8 1847A(c)(6)(B) of the Social Security Act
9 (42 U.S.C. 1395w–3a(c)(6)(B)).

10 (iii) NET PRICE.—The term “net
11 price” means, with respect to prescription
12 drug coverage under a group health plan,
13 the list price of the drug net all rebates,
14 discounts, concessions, and other adjust-
15 ments applied to the cost paid by the
16 group health plan, or by any other entity
17 that provides pharmacy benefit manage-
18 ment services under a contract with any
19 such group health plan, regardless of
20 whether such adjustments are prospective
21 or retrospective.

22 (iv) PRESCRIPTION DRUG.—The term
23 “prescription drug” mean a drug, as de-
24 fined in section 201(g) of the Federal
25 Food, Drug, and Cosmetic Act (21 U.S.C.

1 321(g)), that is subject to section
2 503(b)(1) of such Act (21 U.S.C.
3 353(b)(1)).

○