

T1International #insulin4all

Insulin Copay Cap Legislation

Background

In May 2019, Colorado became the first state in the U.S. to pass a law capping copays for insulin. The reaction was swift and positive. With [Governor Polis' declaration](#) that “the days of insulin price gouging are over in Colorado,” news outlets across the country published stories with headlines about the \$100 price cap, patients lauded Colorado’s big step forward, and lawmakers from other states voiced interest in following suit. Later in 2019, Illinois passed the same bill. In 2020, over 30 states have proposed similar legislation.

It is not wrong to look at the passage of such bills as a victory – for those that these copay caps cover, having a \$100 monthly cap in place could make all the difference. However, it is important to note that this bill is not without its drawbacks. For that reason, T1International’s support for such legislation is nuanced.

Rules and Limitations

Though many media outlets refer to these sorts of bills as insulin price capping legislation, this is a misnomer. These bills do not actually cap insulin prices; they cap health insurance copayments for insulin. Since they only cap health insurance copayments, that means those without health insurance would not benefit from this legislation. This is a key factor to consider given that many of the patient deaths that have occurred due to insulin rationing in the diabetes community were cases in which patients did not have health insurance.

These bills also do not apply to all insurance plans. Plans that are subject to federal ERISA regulations may be ineligible for this price cap, including:

- Employer Self-Funded Plans
- Medicaid
- Medicare
- Tricare/VA

Due to these restrictions, [on average only around 27%](#) of any state’s population would be covered by this sort of copay cap legislation – far fewer than many news headlines indicate.

Strengthening Copay Cap Legislation

In some states, after receiving feedback from patients and advocates, legislators have worked to introduce stronger legislation that includes additional components. Various states have taken several different approaches to making copay cap legislation more inclusive and comprehensive.

- **Covering the Uninsured**

In most cases, copay cap legislation does nothing to help the uninsured, but legislators and advocates in some states have worked to rectify this to help to protect many of the most vulnerable patients in the diabetes community. [Utah's HB207](#), for example, creates a program that allows Utah residents to buy discounted insulin purchased in bulk by the state. In Tennessee, in addition to capping copays, companion bills [HB1931](#) and [SB1939](#) cap costs for the uninsured by asserting that any person who supplies insulin into or within the state cannot charge more than \$100 per 30-day supply.

- **Lowering Copay Caps**

While the majority of states have introduced bills calling for \$100 copay caps per 30-day supply, legislators in some states are pursuing lower copay caps, including California and Connecticut, which proposed \$50 copay caps, Utah and Virginia, which proposed \$30 copay caps, and New Mexico, which passed a \$25 cap.

- **Including Additional Supplies**

Insulin is just one of the many expenses that patients with diabetes must deal with to survive. Connecticut's proposed legislation, bills [HB 5175](#) and [SB 1](#), address this by capping copays on non-insulin drugs (e.g. Glucagon, glucose tablets, and glucose gels) at \$50, and capping the out-of-pocket costs for diabetes supplies including blood glucose test strips, glucose meters, lancets, lancing devices, and syringes, at \$100.

- **Including Emergency Refill Access**

Bills proposed in Connecticut, New York, and Utah include components allowing emergency refill access for insulin, so that pharmacists are able to dispense insulin to patients with invalid prescriptions in the event that the patient's prescriber is unavailable; in many states, such provisions are passed in bills known as [Kevin's Law](#).

- **Demanding Investigations**

Language in proposed legislation in New Jersey, Oklahoma, and Tennessee call for each state to investigate insulin prices in addition to capping the cost of copayments.

Additional Considerations

After Colorado's HB1216 went into effect in January 2019, it became evident that a loophole existed in the legislation that lawmakers did not foresee. Despite lawmakers' intentions that copayments be capped at \$100 per month, [copayments were capped at \\$100 per prescription](#), meaning that for many patients with diabetes who are prescribed more than one type of insulin, their monthly payments were twice as expensive as lawmakers intended. If legislators intend to copy legislation passed from elsewhere, it is important that they fix any such loopholes. It would be better yet if legislators worked to improve such bills in other ways, or proposed legislation that more comprehensively and sustainably reduces the list price of insulin.