

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0428.01 Kristen Forrestal x4217

**HOUSE BILL 23-1002**

---

**HOUSE SPONSORSHIP**

**Mabrey, Jodeh**

**SENATE SPONSORSHIP**

**Roberts,**

---

**House Committees**  
Health & Insurance

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE AFFORDABILITY OF EPINEPHRINE AUTO-INJECTORS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Effective January 1, 2024, the bill creates an epinephrine auto-injector affordability program (program) to provide low-cost epinephrine auto-injectors to individuals who:

- Are residents of this state;
- Are not enrolled in the state medicaid program or the federal medicare program;
- Have a prescription for an epinephrine auto-injector; and
- Are not enrolled in prescription drug coverage that limits

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

the total amount of cost sharing that the enrollee is required to pay for an epinephrine auto-injector.

The bill requires the division of insurance in the department of regulatory agencies (division) to create an application for the program and requires the division and the department of health care policy and financing to make the application available on their websites and to promote the availability of the program.

The bill requires a carrier that provides coverage for prescription epinephrine auto-injectors to cap the total amount that a covered person is required to pay for all covered prescription epinephrine auto-injectors at an amount not to exceed \$60 for a 2-pack of epinephrine auto-injectors.

A pharmacy that dispenses epinephrine auto-injectors is authorized to collect a copayment not to exceed \$60 from the individual to cover the pharmacy's costs of processing and dispensing a 2-pack of epinephrine auto-injectors.

A manufacturer of epinephrine auto-injectors:

- Is required to make epinephrine auto-injectors available to individuals through the program; and
- May be required to reimburse the dispensing pharmacy an amount that covers the difference between the pharmacy's wholesale acquisition cost for the number of epinephrine auto-injectors dispensed through the program and the amount the recipients of the epinephrine auto-injectors paid for the same number of epinephrine auto-injectors or send the pharmacy a replacement supply of the same number of epinephrine auto-injectors.

If a manufacturer fails to comply with the requirements of the bill, the manufacturer may be subject to a fine.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Individuals who have moderate to severe allergies, severe  
5 asthma, or genetic conditions such as angioedema are at risk of reactions  
6 that can occur within seconds or minutes and that can lead to anaphylaxis,  
7 a potentially fatal reaction;

8 (b) Epinephrine works quickly to improve breathing, stimulate the  
9 heart, raise dropping blood pressure, prevent airways from closing,

1 prevent or decrease shock, reverse hives, and reduce swelling of the face,  
2 lips, and throat;

3 (c) Delay in appropriate treatment for anaphylaxis almost certainly  
4 contributes to death in individuals, so it is critical that all anaphylaxis  
5 reactions are treated as a medical emergency;

6 (d) In Colorado, there are approximately 565,824 individuals with  
7 life-threatening food allergies, which is more than the population of  
8 Colorado Springs; of these individuals, 101,848 are under 18 years of age,  
9 which means that the number of children with food allergies in Colorado  
10 is larger than the population of Longmont;

11 (e) Epinephrine auto-injectors are essential because they are the  
12 easiest and most efficient way to potentially save the life of an individual  
13 exhibiting symptoms of or experiencing anaphylactic shock;

14 (f) Many individuals are unable to afford an epinephrine  
15 auto-injector because they cannot pay the copayment amount required  
16 under their insurance plan or, if they are uninsured, the cost of an  
17 epinephrine auto-injector; these individuals risk their lives every day by  
18 not having access to this life-saving medicine if faced with an allergic  
19 reaction; and

20 (g) Rising costs of epinephrine auto-injectors make this  
21 life-saving medication difficult or impossible to obtain for many people,  
22 even those with private health insurance or who are enrolled in a public  
23 health benefit program.

24 (2) Therefore, it is the intent of the general assembly to establish  
25 an epinephrine auto-injector affordability program to ensure Colorado  
26 residents have greater access to epinephrine.

27 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-158 as

1 follows:

2 **10-16-158. Cost sharing - prescription epinephrine - limits -**  
3 **rules - definition.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
4 OTHERWISE REQUIRES, "EPINEPHRINE AUTO-INJECTOR" HAS THE SAME  
5 MEANING AS SET FORTH IN SECTION 12-280-141 (1)(c).

6 (2) A CARRIER THAT PROVIDES COVERAGE FOR PRESCRIPTION  
7 EPINEPHRINE AUTO-INJECTORS PURSUANT TO THE TERMS OF A HEALTH  
8 COVERAGE PLAN THE CARRIER OFFERS SHALL CAP THE TOTAL AMOUNT  
9 THAT A COVERED PERSON IS REQUIRED TO PAY FOR ALL COVERED  
10 PRESCRIPTION EPINEPHRINE AUTO-INJECTORS AT AN AMOUNT NOT TO  
11 EXCEED SIXTY DOLLARS FOR A TWO-PACK OF EPINEPHRINE  
12 AUTO-INJECTORS, REGARDLESS OF THE AMOUNT OR TYPE OF EPINEPHRINE  
13 NEEDED TO FILL THE COVERED PERSON'S PRESCRIPTION.

14 (3) NOTHING IN THIS SECTION PREVENTS A CARRIER FROM  
15 REDUCING A COVERED PERSON'S COST SHARING TO AN AMOUNT THAT IS  
16 LOWER THAN THE AMOUNT SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

17 (4) THE COMMISSIONER MAY USE ANY OF THE COMMISSIONER'S  
18 ENFORCEMENT POWERS TO OBTAIN A CARRIER'S COMPLIANCE WITH THIS  
19 SECTION.

20 (5) THE COMMISSIONER MAY PROMULGATE RULES AS NECESSARY  
21 TO IMPLEMENT AND ADMINISTER THIS SECTION AND TO ALIGN WITH  
22 FEDERAL REQUIREMENTS.

23 **SECTION 3.** In Colorado Revised Statutes, **add** 12-280-141 as  
24 follows:

25 **12-280-141. Epinephrine auto-injector affordability program**  
26 **- record keeping - reimbursement - definitions.** (1) AS USED IN THIS  
27 SECTION:

1 (a) "CONSUMER PRICE INDEX" MEANS THE UNITED STATES  
2 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE  
3 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL  
4 URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR  
5 INDEX.

6 (b) "DIVISION OF INSURANCE" MEANS THE DIVISION OF INSURANCE  
7 IN THE DEPARTMENT OF REGULATORY AGENCIES, CREATED IN SECTION  
8 10-1-103.

9 (c) "EPINEPHRINE AUTO-INJECTOR" MEANS AN AUTOMATIC  
10 INJECTION DEVICE FOR INJECTING A MEASURED DOSE OF EPINEPHRINE  
11 BASED ON THE WEIGHT OF THE PERSON WHO IS TO RECEIVE THE INJECTION.

12 (d) "MANUFACTURER" MEANS A PERSON ENGAGED IN  
13 MANUFACTURING EPINEPHRINE AUTO-INJECTORS THAT ARE AVAILABLE  
14 FOR PURCHASE IN THIS STATE.

15 (e) "PHARMACY" MEANS A PHARMACY OUTLET REGISTERED  
16 PURSUANT TO THIS ARTICLE 280 WHERE PRESCRIPTIONS ARE COMPOUNDED  
17 AND DISPENSED.

18 (f) "PROGRAM" MEANS THE EPINEPHRINE AUTO-INJECTOR  
19 AFFORDABILITY PROGRAM CREATED IN SUBSECTION (2) OF THIS SECTION.

20 (g) "PROOF OF RESIDENCY" MEANS A CURRENT AND VALID  
21 DOCUMENT THAT IS IN ENGLISH, OR IS TRANSLATED INTO ENGLISH AND IS  
22 UNALTERED, AND THAT INCLUDES THE INDIVIDUAL'S, OR IN THE CASE OF  
23 A MINOR, THE MINOR'S PARENT'S OR GUARDIAN'S, PRINTED NAME AND  
24 COLORADO RESIDENTIAL ADDRESS. DOCUMENTS THAT MAY BE USED FOR  
25 PROOF OF RESIDENCY ARE:

26 (I) A COLORADO-ISSUED DRIVER'S LICENSE OR COLORADO  
27 IDENTIFICATION CARD;

1 (II) A PRINTED BILL, INCLUDING A UTILITY, TELEPHONE, INTERNET,  
2 CABLE, INSURANCE, MORTGAGE, RENT, WASTE DISPOSAL, WATER OR  
3 SEWER, MEDICAL, OR OTHER BILL;

4 (III) A CREDIT CARD OR BANK STATEMENT;

5 (IV) A PAY STUB OR EARNINGS STATEMENT;

6 (V) A PIECE OF POST-MARKED FIRST-CLASS MAIL OR UNITED  
7 STATES POSTAL SERVICE CHANGE OF ADDRESS CONFIRMATION;

8 (VI) A PRINTED RENT RECEIPT OR RESIDENTIAL LEASE;

9 (VII) A TRANSCRIPT OR REPORT CARD FROM AN ACCREDITED  
10 SCHOOL;

11 (VIII) A VEHICLE TITLE OR REGISTRATION;

12 (IX) AN INSURANCE POLICY;

13 (X) A GOVERNMENT-ISSUED LETTER OR STATE OR FEDERAL  
14 GOVERNMENT-ISSUED CHECK; OR

15 (XI) A RECORD OF MEDICAL SERVICE FROM A SHELTER,  
16 TREATMENT FACILITY, OR ASSISTED LIVING FACILITY, INCLUDING A  
17 HOMELESS SHELTER, WOMEN'S SHELTER, OTHER NONPROFIT SHELTER,  
18 HALFWAY HOUSE, NURSING HOME, OR REHABILITATION FACILITY.

19 (h) "WHOLESALE ACQUISITION COST" MEANS A MANUFACTURER'S  
20 LIST PRICE FOR AN EPINEPHRINE AUTO-INJECTOR TO WHOLESALERS OR  
21 DIRECT PURCHASERS IN THE UNITED STATES FOR THE MOST RECENT  
22 MONTH FOR WHICH THE INFORMATION IS REPORTED IN WHOLESALE PRICE  
23 GUIDES OR OTHER PUBLICATIONS OF DRUG OR BIOLOGICAL PRICING DATA.

24 (2) EFFECTIVE JANUARY 1, 2024, THE EPINEPHRINE  
25 AUTO-INJECTOR AFFORDABILITY PROGRAM IS CREATED TO PROVIDE  
26 LOW-COST EPINEPHRINE AUTO-INJECTORS TO ELIGIBLE INDIVIDUALS. BY  
27 JANUARY 1, 2024, EACH MANUFACTURER SHALL ESTABLISH PROCEDURES

1 TO AND SHALL MAKE EPINEPHRINE AUTO-INJECTORS AVAILABLE IN  
2 ACCORDANCE WITH THIS SECTION TO ELIGIBLE INDIVIDUALS WHO HOLD A  
3 VALID PRESCRIPTION FOR EPINEPHRINE AUTO-INJECTORS.

4 (3) TO BE ELIGIBLE TO RECEIVE EPINEPHRINE AUTO-INJECTORS  
5 THROUGH THE PROGRAM, AN INDIVIDUAL MUST:

6 (a) DEMONSTRATE PROOF OF RESIDENCY IN COLORADO;

7 (b) NOT BE ELIGIBLE FOR ASSISTANCE PROVIDED THROUGH THE  
8 "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5,  
9 OR THE FEDERAL "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII  
10 OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395 ET SEQ.,  
11 AS AMENDED;

12 (c) HAVE A VALID EPINEPHRINE AUTO-INJECTOR PRESCRIPTION;  
13 AND

14 (d) NOT BE ENROLLED IN PRESCRIPTION DRUG COVERAGE THAT  
15 LIMITS THE TOTAL AMOUNT OF COST SHARING THAT THE ENROLLEE IS  
16 REQUIRED TO PAY FOR A COVERED PRESCRIPTION TO NOT MORE THAN  
17 SIXTY DOLLARS FOR A TWO-PACK OF EPINEPHRINE AUTO-INJECTORS,  
18 REGARDLESS OF THE AMOUNT OR TYPE OF EPINEPHRINE NEEDED TO FILL  
19 THE PRESCRIPTION.

20 (4) (a) THE DIVISION OF INSURANCE SHALL DEVELOP AN  
21 APPLICATION FORM TO BE USED BY AN INDIVIDUAL WHO IS SEEKING  
22 EPINEPHRINE AUTO-INJECTORS THROUGH THE PROGRAM. AT A MINIMUM,  
23 THE APPLICATION FORM MUST:

24 (I) PROVIDE INFORMATION RELATED TO PROGRAM ELIGIBILITY AND  
25 COVERAGE IN ENGLISH, SPANISH, AND IN EACH LANGUAGE SPOKEN BY AT  
26 LEAST TWO AND ONE-HALF PERCENT OF THE POPULATION OF ANY COUNTY  
27 IN WHICH SUCH POPULATION SPEAKS ENGLISH LESS THAN VERY WELL, AS

1       DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN  
2       COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND SPEAKS A  
3       SHARED MINORITY LANGUAGE AT HOME; AND

4               (II)    REQUIRE THE INDIVIDUAL TO SHOW PROOF THAT THE  
5       INDIVIDUAL MEETS THE REQUIREMENTS OF SUBSECTION (3) OF THIS  
6       SECTION.

7               (b) THE DIVISION OF INSURANCE AND THE DEPARTMENT OF HEALTH  
8       CARE POLICY AND FINANCING SHALL MAKE THE APPLICATION FORM  
9       AVAILABLE ON EACH AGENCY'S WEBSITE. THE DIVISION OF INSURANCE  
10      SHALL ALSO MAKE THE APPLICATION FORM AVAILABLE TO PHARMACIES,  
11      HEALTH-CARE PROVIDERS, AND HEALTH FACILITIES THAT PRESCRIBE OR  
12      DISPENSE EPINEPHRINE AUTO-INJECTORS.

13              (5)    TO ACCESS EPINEPHRINE AUTO-INJECTORS THROUGH THE  
14      PROGRAM, AN INDIVIDUAL MUST PRESENT, AT A PHARMACY, A  
15      COMPLETED, SIGNED, AND DATED APPLICATION FORM WITH PROOF OF  
16      RESIDENCY. IF THE INDIVIDUAL IS UNDER EIGHTEEN YEARS OF AGE, THE  
17      INDIVIDUAL'S PARENT OR LEGAL GUARDIAN MAY PROVIDE THE  
18      PHARMACIST WITH PROOF OF RESIDENCY.

19              (6) (a) UPON RECEIPT OF AN INDIVIDUAL'S PROOF OF RESIDENCY  
20      AND COMPLETED, SIGNED, AND DATED APPLICATION FORM  
21      DEMONSTRATING THAT THE INDIVIDUAL IS ELIGIBLE PURSUANT TO  
22      SUBSECTION (3) OF THIS SECTION, A PHARMACIST SHALL DISPENSE THE  
23      PRESCRIBED EPINEPHRINE AUTO-INJECTORS. AN INDIVIDUAL WHO IS  
24      ELIGIBLE TO RECEIVE EPINEPHRINE AUTO-INJECTORS THROUGH THE  
25      PROGRAM MAY RECEIVE EPINEPHRINE AUTO-INJECTORS AS PRESCRIBED  
26      FOR TWELVE MONTHS.

27              (b) THE PHARMACIST IS ENCOURAGED TO INFORM THE INDIVIDUAL:



1 (I) THAT THE INDIVIDUAL MAY BE ELIGIBLE FOR MEDICAL  
2 ASSISTANCE PROGRAMS PURSUANT TO THE "COLORADO MEDICAL  
3 ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, OR AN AFFORDABLE  
4 INSURANCE PRODUCT ON THE HEALTH BENEFIT EXCHANGE CREATED IN  
5 SECTION 10-22-104; AND

6 (II) OF ANY MANUFACTURER-SPONSORED PROGRAMS THAT ASSIST  
7 INDIVIDUALS WHO CANNOT AFFORD THEIR PRESCRIPTION EPINEPHRINE  
8 AUTO-INJECTORS.

9 (c) THE PHARMACIST SHALL RETAIN A COPY OF THE APPLICATION  
10 FORM SUBMITTED BY THE INDIVIDUAL FOR TWO YEARS AFTER THE DATE  
11 THE EPINEPHRINE AUTO-INJECTOR WAS INITIALLY DISPENSED.

12 (7) A PHARMACY THAT DISPENSES EPINEPHRINE AUTO-INJECTORS  
13 PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION MAY COLLECT A  
14 COPAYMENT FROM THE INDIVIDUAL TO COVER THE PHARMACY'S COSTS OF  
15 PROCESSING AND DISPENSING THE EPINEPHRINE AUTO-INJECTOR, WHICH  
16 COPAYMENT AMOUNT MUST NOT EXCEED SIXTY DOLLARS FOR EACH  
17 TWO-PACK OF EPINEPHRINE AUTO-INJECTORS THAT THE PHARMACY  
18 DISPENSES TO THE INDIVIDUAL.

19 (8) (a) EXCEPT AS PROVIDED IN SUBSECTION (8)(d) OF THIS  
20 SECTION, UNLESS THE MANUFACTURER AGREES TO SEND TO THE  
21 PHARMACY A REPLACEMENT SUPPLY OF THE SAME NUMBER OF  
22 EPINEPHRINE AUTO-INJECTORS DISPENSED THROUGH THE PROGRAM, THE  
23 PHARMACY MAY SUBMIT TO THE MANUFACTURER OF THE DISPENSED  
24 EPINEPHRINE AUTO-INJECTORS, DIRECTLY OR THROUGH THE  
25 MANUFACTURER'S DELEGATED REPRESENTATIVE, SUBCONTRACTOR, OR  
26 OTHER VENDOR, AN ELECTRONIC CLAIM FOR PAYMENT THAT IS MADE IN  
27 ACCORDANCE WITH THE NATIONAL COUNCIL FOR PRESCRIPTION DRUG

1 PROGRAMS' STANDARDS FOR ELECTRONIC CLAIMS PROCESSING.

2 (b) BY JANUARY 1, 2024, EACH MANUFACTURER SHALL DEVELOP  
3 A PROCESS FOR A PHARMACY TO SUBMIT AN ELECTRONIC CLAIM FOR  
4 REIMBURSEMENT AS PROVIDED IN SUBSECTION (8)(a) OF THIS SECTION.

5 (c) IF THE PHARMACY SUBMITS AN ELECTRONIC CLAIM TO THE  
6 MANUFACTURER PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION, THE  
7 MANUFACTURER OR THE MANUFACTURER'S DELEGATED REPRESENTATIVE,  
8 SUBCONTRACTOR, OR OTHER VENDOR SHALL, WITHIN THIRTY DAYS AFTER  
9 RECEIPT OF THE CLAIM, EITHER:

10 (I) REIMBURSE THE PHARMACY IN AN AMOUNT THAT COVERS THE  
11 DIFFERENCE BETWEEN THE PHARMACY'S WHOLESALE ACQUISITION COST  
12 FOR THE NUMBER OF EPINEPHRINE AUTO-INJECTORS DISPENSED THROUGH  
13 THE PROGRAM AND THE AMOUNT THE INDIVIDUAL PAID FOR THE SAME  
14 NUMBER OF EPINEPHRINE AUTO-INJECTORS PURSUANT TO SUBSECTION (7)  
15 OF THIS SECTION; OR

16 (II) SEND THE PHARMACY A REPLACEMENT SUPPLY OF THE SAME  
17 NUMBER OF EPINEPHRINE AUTO-INJECTORS IN AN AMOUNT EQUAL TO OR  
18 GREATER THAN THE AMOUNT THAT COVERS THE DIFFERENCE BETWEEN  
19 THE PHARMACY'S WHOLESALE ACQUISITION COST FOR THE NUMBER OF  
20 EPINEPHRINE AUTO-INJECTORS DISPENSED THROUGH THE PROGRAM AND  
21 THE AMOUNT THE INDIVIDUAL PAID FOR THE SAME NUMBER OF  
22 EPINEPHRINE AUTO-INJECTORS PURSUANT TO SUBSECTION (7) OF THIS  
23 SECTION.

24 (d) A PHARMACY SHALL NOT SUBMIT A CLAIM FOR PAYMENT FOR  
25 EPINEPHRINE AUTO-INJECTORS WITH A WHOLESALE ACQUISITION COST OF  
26 TWENTY DOLLARS OR LESS PER TWO-PACK OF EPINEPHRINE  
27 AUTO-INJECTORS, ADJUSTED ANNUALLY BASED ON THE ANNUAL

1 PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX.

2 (9) THE DIVISION OF INSURANCE AND THE DEPARTMENT OF HEALTH  
3 CARE POLICY AND FINANCING SHALL PROMOTE THE AVAILABILITY OF THE  
4 PROGRAM TO COLORADANS. THE PROMOTIONAL MATERIAL MUST INCLUDE  
5 INFORMATION ABOUT EACH MANUFACTURER'S CONSUMER EPINEPHRINE  
6 AUTO-INJECTOR PROGRAM, AS APPLICABLE. EACH AGENCY MAY SEEK AND  
7 ACCEPT GIFTS, GRANTS, AND DONATIONS TO FULFILL THE REQUIREMENTS  
8 OF THIS SUBSECTION (9).

9 (10) A MANUFACTURER'S REIMBURSEMENT PURSUANT TO  
10 SUBSECTION (8)(c) OF THIS SECTION IS NOT A KICKBACK.

11 (11) A MANUFACTURER THAT FAILS TO COMPLY WITH THE  
12 REQUIREMENTS OF THIS SECTION IS SUBJECT TO A FINE OF TEN THOUSAND  
13 DOLLARS FOR EACH MONTH OF NONCOMPLIANCE.

14 **SECTION 4. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly; except  
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
18 of the state constitution against this act or an item, section, or part of this  
19 act within such period, then the act, item, section, or part will not take  
20 effect unless approved by the people at the general election to be held in  
21 November 2024 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.