

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 597

Representative Robinson

**Cosponsors: Representatives Brennan, Brewer, Brown, Dell'Aquila, McNally,
Russo, Upchurch**

A BILL

To amend sections 5162.20 and 5167.12 and to enact 1
sections 3902.64 and 5164.093 of the Revised 2
Code to require health benefit plans and the 3
Medicaid Program to cover epinephrine and 4
glucagon for individuals eighteen years of age 5
and younger and to cap cost sharing for 6
epinephrine and glucagon in any form. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5162.20 and 5167.12 be amended 8
and sections 3902.64 and 5164.093 of the Revised Code be enacted 9
to read as follows: 10

Sec. 3902.64. (A) As used in this section: 11

(1) "Epinephrine autoinjector" means a device used to 12
administer epinephrine only in a manufactured dosage form. 13

(2) "Glucagon autoinjector" means a device used to 14
administer glucagon only in a manufactured dosage form. 15

(B) Notwithstanding section 3901.71 of the Revised Code, a 16

health benefit plan issued, amended, or renewed after the 17
effective date of this section shall cover both of the following 18
for a covered person who is eighteen years of age or younger: 19

(1) Epinephrine in any prescribed form, if considered 20
medically necessary by the covered person's provider; 21

(2) Glucagon in any prescribed form, if considered 22
medically necessary by the covered person's provider. 23

(C) Notwithstanding section 3901.71 of the Revised Code, 24
no health plan issuer that provides coverage for medically 25
necessary epinephrine or glucagon autoinjectors, or for 26
epinephrine or glucagon in any other prescribed form, pursuant 27
to the terms of a health benefit plan issued, amended, or 28
renewed on or after the effective date of this section, shall 29
require cost sharing in excess of either of the following: 30

(1) For medically necessary epinephrine or glucagon 31
autoinjectors, sixty dollars per package containing two 32
autoinjectors, regardless of the amount or type of epinephrine 33
or glucagon autoinjectors needed to fill the covered person's 34
prescription; 35

(2) For epinephrine or glucagon in any other prescribed 36
form, sixty dollars per dose equivalent to the dose contained 37
within two autoinjectors, regardless of the amount or type of 38
epinephrine or glucagon needed to fill the covered person's 39
prescription. 40

(D) The cost-sharing limitations under division (C) of 41
this section apply regardless of any deductible, copayment, 42
coinsurance, or any other cost-sharing requirement that would 43
otherwise apply to the covered person under the health benefit 44
plan. 45

(E) This section does not prohibit a health plan issuer 46
from reducing a covered person's cost-sharing requirement for 47
medically necessary epinephrine or glucagon autoinjectors to 48
amounts less than those prescribed by division (C) of this 49
section. 50

Sec. 5162.20. (A) The department of medicaid shall 51
institute cost-sharing requirements for the medicaid program. 52
The department shall not institute cost-sharing requirements in 53
a manner that does ~~either~~ any of the following: 54

(1) Disproportionately impacts the ability of medicaid 55
recipients with chronic illnesses to obtain medically necessary 56
medicaid services; 57

(2) Violates section 5164.09 or 5164.10 of the Revised 58
Code; 59

(3) Violates section 5164.093 of the Revised Code. 60

(B) (1) No provider shall refuse to provide a service to a 61
medicaid recipient who is unable to pay a required copayment for 62
the service. 63

(2) Division (B) (1) of this section shall not be 64
considered to do either of the following with regard to a 65
medicaid recipient who is unable to pay a required copayment: 66

(a) Relieve the medicaid recipient from the obligation to 67
pay a copayment; 68

(b) Prohibit the provider from attempting to collect an 69
unpaid copayment. 70

(C) Except as provided in division (F) of this section, no 71
provider shall waive a medicaid recipient's obligation to pay 72
the provider a copayment. 73

(D) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(E) If it is the routine business practice of a provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing requirements as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the recipient of the provider's intent to refuse service.

(F) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (C) of this section does not apply.

(G) The department of medicaid may collaborate with a state agency that is administering, pursuant to a contract entered into under section 5162.35 of the Revised Code, one or more components, or one or more aspects of a component, of the medicaid program as necessary for the state agency to apply the cost-sharing requirements to the components or aspects of a component that the state agency administers.

Sec. 5164.093. (A) The medicaid program shall cover any of the following for an enrollee who is eighteen years of age or

<u>younger:</u>	104
<u>(1) Epinephrine in any prescribed form, if considered</u>	105
<u>medically necessary by the enrollee's provider;</u>	106
<u>(2) Glucagon in any prescribed form, if considered</u>	107
<u>medically necessary by the enrollee's provider.</u>	108
<u>(B) The department of medicaid shall not impose cost-</u>	109
<u>sharing requirements under section 5162.20 of the Revised Code</u>	110
<u>for any prescribed form of epinephrine or glucagon that are</u>	111
<u>greater than any cost-sharing requirements instituted under that</u>	112
<u>section for epinephrine or glucagon in a different prescribed</u>	113
<u>form. Any cost-sharing requirements instituted for any</u>	114
<u>prescribed form of epinephrine or glucagon shall comply with the</u>	115
<u>requirements established under section 3902.64 of the Revised</u>	116
<u>Code.</u>	117
Sec. 5167.12. If prescribed drugs are included in the care	118
management system:	119
(A) Medicaid MCO plans may include strategies for the	120
management of drug utilization, but any such strategies are	121
subject to the limitations and requirements of this section and	122
the approval of the department of medicaid.	123
(B) A medicaid MCO plan shall not impose a prior	124
authorization requirement in the case of a drug to which all of	125
the following apply:	126
(1) The drug is an antidepressant or antipsychotic.	127
(2) The drug is administered or dispensed in a standard	128
tablet or capsule form, except that in the case of an	129
antipsychotic, the drug also may be administered or dispensed in	130
a long-acting injectable form.	131

(3) The drug is prescribed by any of the following:	132
(a) A physician who has registered the physician's psychiatric specialty with the department;	133 134
(b) A psychiatrist who is practicing at a location on behalf of a community mental health services provider whose mental health services are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code;	135 136 137 138 139
(c) A certified nurse practitioner, as defined in section 4723.01 of the Revised Code, who is certified in psychiatric mental health by a national certifying organization approved by the board of nursing under section 4723.46 of the Revised Code;	140 141 142 143
(d) A clinical nurse specialist, as defined in section 4723.01 of the Revised Code, who is certified in psychiatric mental health by a national certifying organization approved by the board of nursing under section 4723.46 of the Revised Code.	144 145 146 147
(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.	148 149 150
(C) The department shall authorize a medicaid MCO plan to include a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.	151 152 153 154 155
(D) Each medicaid managed care organization and medicaid MCO plan shall comply with sections 5164.091, <u>5164.093</u> , 5164.10, 5164.7511, 5164.7512, and 5164.7514 of the Revised Code as if the organization were the department and the plan were the medicaid program.	156 157 158 159 160

Section 2. That existing sections 5162.20 and 5167.12 of 161
the Revised Code are hereby repealed. 162