

118TH CONGRESS
2D SESSION

H. R. 6965

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to establish requirements with respect to cost sharing for epinephrine injectors under group health plans and group and individual health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2024

Mr. FROST (for himself and Ms. MATSUI) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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 amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to establish requirements with respect to cost sharing for epinephrine injectors under group health plans and group and individual health insurance coverage.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Epinephrine’s Pharma
3 Inflated Price Ends Now Act” or the “EPIPEN Act”.

4 **SEC. 2. REQUIREMENTS WITH RESPECT TO COST SHARING**
5 **FOR EPINEPHRINE INJECTORS.**

6 (a) PHSA.—Part D of title XXVII of the Public
7 Health Service Act (42 U.S.C. 300gg–111 et seq.) is
8 amended by adding at the end the following new section:
9 **“SEC. 2799A–11. REQUIREMENTS WITH RESPECT TO COST**
10 **SHARING FOR EPINEPHRINE INJECTORS.**

11 “(a) IN GENERAL.—A group health plan, and a
12 health insurance issuer offering group or individual health
13 insurance coverage, shall provide coverage of epinephrine
14 injectors, and with respect to such injectors, may not—

15 “(1) apply any deductible; or

16 “(2) impose any cost sharing in excess of \$60
17 per package of 2 injectors (or the equivalent).

18 “(b) APPLICATION OF COST SHARING TOWARD
19 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any
20 cost-sharing payments made pursuant to subsection (a)(2)
21 shall be counted toward any deductible or out-of-pocket
22 maximum that applies under the plan or coverage.

23 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in
24 this section requires a plan or issuer that has a network
25 of providers to provide benefits for an epinephrine injector
26 described in this section that is delivered by an out-of-

1 network provider, or precludes a plan or issuer that has
2 a network of providers from imposing higher cost sharing
3 than the levels specified in subsection (a)(2) for an epi-
4 nephrine injector described in this section that is delivered
5 by an out-of-network provider.

6 “(d) EPINEPHRINE INJECTOR DEFINED.—In this
7 section, the term ‘epinephrine injector’ means an auto-in-
8 jector approved by the Food and Drug Administration for
9 the administration of epinephrine.”

10 (b) ERISA.—

11 (1) IN GENERAL.—Subpart B of part 7 of sub-
12 title B of title I of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
14 amended by adding at the end the following new sec-
15 tion:

16 **“SEC. 726. REQUIREMENTS WITH RESPECT TO COST SHAR-**
17 **ING FOR EPINEPHRINE INJECTORS.**

18 “(a) IN GENERAL.—A group health plan, and a
19 health insurance issuer offering group health insurance
20 coverage, shall provide coverage of epinephrine injectors,
21 and with respect to such injectors, may not—

22 “(1) apply any deductible; or

23 “(2) impose any cost sharing in excess of \$60
24 per package of 2 injectors (or the equivalent).

1 “(b) APPLICATION OF COST SHARING TOWARD
2 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any
3 cost-sharing payments made pursuant to subsection (a)(2)
4 shall be counted toward any deductible or out-of-pocket
5 maximum that applies under the plan or coverage.

6 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in
7 this section requires a plan or issuer that has a network
8 of providers to provide benefits for an epinephrine injector
9 described in this section that is delivered by an out-of-
10 network provider, or precludes a plan or issuer that has
11 a network of providers from imposing higher cost sharing
12 than the levels specified in subsection (a)(2) for an epi-
13 nephrine injector described in this section that is delivered
14 by an out-of-network provider.

15 “(d) EPINEPHRINE INJECTOR DEFINED.—In this
16 section, the term ‘epinephrine injector’ means an auto-in-
17 jector approved by the Food and Drug Administration for
18 the administration of epinephrine.”.

19 (2) CLERICAL AMENDMENT.—The table of con-
20 tents in section 1 of the Employee Retirement In-
21 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
22 is amended by inserting after the item relating to
23 section 725 the following:

“Sec. 726. Requirements with respect to cost sharing for epinephrine
injectors.”.

24 (c) IRC.—

1 (1) IN GENERAL.—Subchapter B of chapter
2 100 of the Internal Revenue Code of 1986 is amend-
3 ed by adding at the end the following new section:

4 **“SEC. 9826. REQUIREMENTS WITH RESPECT TO COST SHAR-**
5 **ING FOR EPINEPHRINE INJECTORS.**

6 “(a) IN GENERAL.—A group health plan shall pro-
7 vide coverage of epinephrine injectors, and with respect
8 to such injectors, may not—

9 “(1) apply any deductible; or

10 “(2) impose any cost sharing in excess of \$60
11 per package of 2 injectors (or the equivalent).

12 “(b) APPLICATION OF COST SHARING TOWARD
13 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any
14 cost-sharing payments made pursuant to subsection (a)(2)
15 shall be counted toward any deductible or out-of-pocket
16 maximum that applies under the plan.

17 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in
18 this section requires a plan that has a network of providers
19 to provide benefits for an epinephrine injector described
20 in this section that is delivered by an out-of-network pro-
21 vider, or precludes a plan that has a network of providers
22 from imposing higher cost sharing than the levels specified
23 in subsection (a)(2) for an epinephrine injector described
24 in this section that is delivered by an out-of-network pro-
25 vider.

1 “(d) EPINEPHRINE INJECTOR DEFINED.—In this
2 section, the term ‘epinephrine injector’ means an auto-in-
3 jector approved by the Food and Drug Administration for
4 the administration of epinephrine.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions for subchapter B of chapter 100 of the Inter-
7 nal Revenue Code of 1986 is amended by adding at
8 the end the following new item:

“Sec. 9826. Requirements with respect to cost sharing for epinephrine
injectors.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to plan years begin-
11 ning on or after January 1, 2025.

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