

HOUSE BILL No. 1219

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8; IC 27-2-9.1; IC 27-8-5; IC 27-13-7; IC 27-13-38-7.5.

Synopsis: Health insurance. Requires a state employee health plan, a policy of accident and sickness insurance, a health maintenance organization contract, an employee welfare benefit plan, or any other health plan that is compliant with federal law to only offer health plans that do not require a covered individual to: (1) pay a deductible; or (2) pay more than the amount of the copayment or coinsurance specified in the plan's summary of benefits and coverage; with respect to a prescription drug. Prohibits a state employee health plan, a policy of accident and sickness insurance, or a health maintenance organization contract from requiring an insured to pay a cost sharing requirement of more than \$250 for a 30 day supply of an individual prescription drug. Requires a state employee health plan, a policy of accident and sickness insurance, and a health maintenance organization contract to include any amounts paid by a covered individual or on behalf of a covered individual when calculating the covered individual's cost sharing requirement. Provides that the cost sharing requirement for a prescription drug under a state employee health plan, a policy of accident and sickness insurance, or a health maintenance organization contract will be calculated at the point of sale and based on a price that is reduced by an amount equal to at least 75% of all rebates received by the insurer in connection with the dispensing or administration of the prescription drug.

Effective: July 1, 2020.

Shackleford

January 13, 2020, read first time and referred to Committee on Insurance.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1219

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-18.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 18.5. (a) The definitions in section 17 of this chapter**
4 **apply throughout this section.**

5 **(b) A state employee health plan may not require a covered**
6 **individual to pay a cost sharing requirement of more than two**
7 **hundred fifty dollars (\$250) for a thirty (30) day supply of an**
8 **individual covered prescription drug.**

9 SECTION 2. IC 5-10-8-26 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2020]: **Sec. 26. (a) As used in this section, "cost sharing**
12 **requirement" means the copayment, coinsurance, or deductible**
13 **required under a state employee health plan to be paid by or on**
14 **behalf of a covered individual for a covered health care service.**

15 **(b) As used in this section, "covered individual" means an**
16 **individual who is entitled to coverage under a state employee**
17 **health plan.**



1 (c) As used in this section, "health care service" means an item
 2 or service furnished to an individual to prevent, alleviate, cure, or
 3 heal human illness, injury, or physical disability. The term includes
 4 a prescription drug.

5 (d) As used in this section, "person" means an individual or an
 6 entity.

7 (e) As used in this section, "state employee health plan" refers
 8 to the following:

9 (1) A self-insurance program established under section 7(b) of
 10 this chapter.

11 (2) A contract with a prepaid health care delivery plan that is
 12 entered into or renewed under section 7(c) of this chapter.

13 (f) As used in this section, "therapeutic equivalent" means a
 14 prescription drug that, in relation to another drug:

15 (1) is:

16 (A) approved as safe and effective; and

17 (B) assigned the same therapeutic equivalence code;
 18 by the federal Food and Drug Administration;

19 (2) contains identical amounts:

20 (A) of the same active ingredient; and

21 (B) in the same dosage form and route of administration;
 22 and

23 (3) meets compendial or other applicable standards of
 24 strength, quality, purity, and identity.

25 (g) Except as provided in subsection (h), when calculating a
 26 covered individual's contribution to any applicable cost sharing
 27 requirement, a state employee health plan must include any cost
 28 sharing amounts paid by:

29 (1) the covered individual; and

30 (2) another person on behalf of the covered individual.

31 (h) The cost sharing calculation required under subsection (g)
 32 does not apply to the cost sharing requirement for a prescription
 33 drug for which there is a therapeutic equivalent.

34 (i) If the cost sharing calculation required under subsection (g)
 35 would be the sole cause of the failure of a high deductible health
 36 plan with a health savings account to qualify as a high deductible
 37 health plan under Section 223 of the Internal Revenue Code, the
 38 calculation does not apply to the plan to the extent necessary to
 39 avoid disqualification of the plan.

40 SECTION 3. IC 5-10-8-27 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2020]: Sec. 27. (a) As used in this section, "cost sharing



1 requirement" means the copayment, coinsurance, or deductible
2 required under a state employee health plan to be paid by or on
3 behalf of a covered individual for a covered prescription drug.

4 (b) As used in this section, "covered individual" means an
5 individual who is entitled to coverage under a state employee
6 health plan.

7 (c) As used in this section, "price protection rebate" means a
8 negotiated price concession that accrues directly or indirectly to a
9 state employee health plan or other party on behalf of the state
10 employee health plan, if there is an increase in the wholesale
11 acquisition cost of a prescription drug above a specified threshold.

12 (d) As used in this section, "rebate" means a discount or other
13 price concession, including base price concessions, price protection
14 rebates, and performance based price concessions, that may accrue
15 directly or indirectly to a state employee health plan from a
16 manufacturer, dispensing pharmacy, or other party in connection
17 with the dispensing or administration of a prescription drug to
18 reduce the state employee health plan's liability for the
19 prescription drug.

20 (e) As used in this section, "state employee health plan" refers
21 to the following:

22 (1) A self-insurance program established under section 7(b) of
23 this chapter.

24 (2) A contract with a prepaid health care delivery plan that is
25 entered into or renewed under section 7(c) of this chapter.

26 (f) A covered individual's cost sharing requirement for a
27 prescription drug is calculated at the point of sale based on a price
28 that is reduced by an amount equal to at least seventy-five percent
29 (75%) of all rebates received or estimated to be received by the
30 state employee health plan in connection with the dispensing or
31 administration of the prescription drug.

32 (g) Nothing in this section prohibits a state employee health plan
33 from decreasing a covered individual's cost sharing requirement
34 by an amount greater than the amount required under subsection
35 (f).

36 (h) A state employee health plan may not publish or otherwise
37 reveal information regarding the actual amount of rebates the
38 insurer receives on a product, manufacturer, or pharmacy specific
39 basis. This information is protected as a trade secret (as defined in
40 IC 24-2-3-2) and may not be published. A state employee health
41 plan shall impose the confidentiality protections of this subsection
42 on any vendor or third party that performs administrative services



1 **on behalf of the state employee health plan that may receive or**
 2 **have access to rebate information.**

3 SECTION 4. IC 27-2-9.1 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2020]:

6 **Chapter 9.1. Cost Sharing for Prescription Drugs**

7 **Sec. 1. As used in this chapter, "covered individual" means an**
 8 **individual who is entitled to coverage under a health plan.**

9 **Sec. 2. As used in this chapter, "health plan" means a plan that**
 10 **is compliant with the PPACA and offered by an insurer to provide,**
 11 **deliver, arrange for, pay for, or reimburse the cost of health care**
 12 **services. The term includes the following:**

13 (1) **A policy of accident and sickness insurance (as defined in**
 14 **IC 27-8-5-1).**

15 (2) **An individual contract (as defined in IC 27-13-1-21) and a**
 16 **group contract (as defined in IC 27-13-1-16).**

17 (3) **A state employee health plan offered under IC 5-10-8.**

18 (4) **An employee welfare benefit plan (as defined in 29 U.S.C.**
 19 **1002 et seq.).**

20 **Sec. 3. As used in this chapter, "insurer" means an entity**
 21 **licensed in Indiana to issue a health plan.**

22 **Sec. 4. As used in this chapter, "PPACA" refers to the federal**
 23 **Patient Protection and Affordable Care Act (P.L. 111-148), as**
 24 **amended thereafter, including by the federal Health Care and**
 25 **Education Reconciliation Act of 2010 (P.L. 111-152).**

26 **Sec. 5. Except as provided in section 6 of this chapter, an insurer**
 27 **shall only offer health plans that:**

28 (1) **do not require a covered individual to pay a deductible for**
 29 **covered prescription drugs; and**

30 (2) **provide that the cost sharing requirement for a covered**
 31 **individual for any given prescription drug may not exceed the**
 32 **amount of the copayment or coinsurance specified in the**
 33 **health plan's summary of benefits and coverage.**

34 **Sec. 6. The health plan requirements imposed under section 5 of**
 35 **this chapter do not apply to any high deductible health plans, as**
 36 **defined by Section 223 of the Internal Revenue Code.**

37 **Sec. 7. In addition to any other sanction provided by law, the**
 38 **commissioner may impose a civil penalty against an insurer who**
 39 **violates this chapter.**

40 SECTION 5. IC 27-8-5-31.5 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2020]: **Sec. 31.5. (a) The definitions in section 30 of this chapter**



1 apply throughout this section.

2 (b) An insurer shall not require an insured to pay a cost sharing
3 requirement of more than two hundred fifty dollars (\$250) for a
4 thirty (30) day supply of an individual covered prescription drug.

5 SECTION 6. IC 27-8-5-33 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2020]: Sec. 33. (a) As used in this section, "cost sharing
8 requirement" means the copayment, coinsurance, or deductible
9 required under a policy of accident and sickness insurance to be
10 paid by or on behalf of a covered individual for a covered health
11 care service.

12 (b) As used in this section, "covered individual" means an
13 individual who is entitled to coverage under a policy of accident
14 and sickness insurance.

15 (c) As used in this section, "health care service" means an item
16 or service furnished to an individual to prevent, alleviate, cure, or
17 heal human illness, injury, or physical disability. The term includes
18 a prescription drug.

19 (d) As used in this section, "insurer" means an insurer that
20 issues a policy of accident and sickness insurance. The term
21 includes a person that administers health care service benefits on
22 behalf of an insurer.

23 (e) As used in this section, "person" means an individual or an
24 entity.

25 (f) As used in this section, "policy of accident and sickness
26 insurance" has the meaning set forth in section 1 of this chapter.

27 (g) As used in this section, "therapeutic equivalent" means a
28 prescription drug that, in relation to another drug:

29 (1) is:

30 (A) approved as safe and effective; and

31 (B) assigned the same therapeutic equivalence code;
32 by the federal Food and Drug Administration;

33 (2) contains identical amounts:

34 (A) of the same active ingredient; and

35 (B) in the same dosage form and route of administration;
36 and

37 (3) meets compendial or other applicable standards of
38 strength, quality, purity, and identity.

39 (h) Except as provided in subsection (i), when calculating a
40 covered individual's contribution to any applicable cost sharing
41 requirement under a policy of accident and sickness insurance, an
42 insurer shall include any cost sharing amounts paid by:



1 (1) the covered individual; and

2 (2) another person on behalf of the covered individual.

3 (i) The cost sharing calculation required under subsection (h)
4 does not apply to the cost sharing requirement for a prescription
5 drug for which there is a therapeutic equivalent.

6 (j) If the cost sharing calculation required under subsection (h)
7 would be the sole cause of the failure of a high deductible health
8 plan with a health savings account to qualify as a high deductible
9 health plan under Section 223 of the Internal Revenue Code, the
10 calculation does not apply to the plan to the extent necessary to
11 avoid disqualification of the plan.

12 SECTION 7. IC 27-8-5-34 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2020]: **Sec. 34. (a) As used in this section, "cost sharing
15 requirement" means the copayment, coinsurance, or deductible
16 required under a policy of accident and sickness insurance to be
17 paid by or on behalf of a covered individual for a covered
18 prescription drug.**

19 **(b) As used in this section, "covered individual" means an
20 individual who is entitled to coverage under a policy of accident
21 and sickness insurance.**

22 **(c) As used in this section, "insurer" means an insurer that
23 issues a policy of accident and sickness insurance.**

24 **(d) As used in this section, "price protection rebate" means a
25 negotiated price concession that accrues directly or indirectly to an
26 insurer or other party on behalf of the insurer, if there is an
27 increase in the wholesale acquisition cost of a prescription drug
28 above a specified threshold.**

29 **(e) As used in this section, "rebate" means a discount or other
30 price concession, including base price concessions, price protection
31 rebates, and performance based price concessions, that may accrue
32 directly or indirectly to an insurer from a manufacturer,
33 dispensing pharmacy, or other party in connection with the
34 dispensing or administration of a prescription drug to reduce the
35 insurer's liability for the prescription drug.**

36 **(f) A covered individual's cost sharing requirement for a
37 prescription drug is calculated at the point of sale based on a price
38 that is reduced by an amount equal to at least seventy-five percent
39 (75%) of all rebates received or estimated to be received by the
40 insurer in connection with the dispensing or administration of the
41 prescription drug.**

42 **(g) Nothing in this section prohibits an insurer from decreasing**



1 a covered individual's cost sharing requirement by an amount
2 greater than the amount required under subsection (f).

3 (h) An insurer may not publish or otherwise reveal information
4 regarding the actual amount of rebates the insurer receives on a
5 product, manufacturer, or pharmacy specific basis. This
6 information is protected as a trade secret (as defined in
7 IC 24-2-3-2) and may not be published. An insurer shall impose the
8 confidentiality protections of this subsection on any vendor or third
9 party that performs administrative services on behalf of the
10 insurer that may receive or have access to rebate information.

11 SECTION 8. IC 27-13-7-28 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2020]: Sec. 28. (a) As used in this section, "cost sharing
14 requirement" means the copayment, coinsurance, or deductible
15 required under an individual contract or a group contract to be
16 paid by or on behalf of an enrollee for a covered health care
17 service.

18 (b) As used in this section, "health maintenance organization"
19 has the meaning set forth in IC 27-13-1-19. The term includes a
20 limited service health maintenance organization and a person that
21 administers health care service benefits on behalf of a health
22 maintenance organization or a limited service health maintenance
23 organization.

24 (c) As used in this section, "person" means an individual or an
25 entity.

26 (d) As used in this section, "therapeutic equivalent" means a
27 prescription drug that, in relation to another drug:

28 (1) is:

29 (A) approved as safe and effective; and

30 (B) assigned the same therapeutic equivalence code;

31 by the federal Food and Drug Administration;

32 (2) contains identical amounts:

33 (A) of the same active ingredient; and

34 (B) in the same dosage form and route of administration;

35 and

36 (3) meets compendial or other applicable standards of
37 strength, quality, purity, and identity.

38 (e) Except as provided in subsection (f), when calculating an
39 enrollee's contribution to any applicable cost sharing requirement
40 under an individual contract or a group contract, a health
41 maintenance organization shall include any cost sharing amounts
42 paid by:



1 (1) the enrollee; and

2 (2) another person on behalf of the enrollee.

3 (f) The cost sharing calculation required under subsection (e)
4 does not apply to the cost sharing requirement for a prescription
5 drug for which there is a therapeutic equivalent.

6 (g) If the cost sharing calculation required under subsection (e)
7 would be the sole cause of the failure of a high deductible health
8 plan with a health savings account to qualify as a high deductible
9 health plan under Section 223 of the Internal Revenue Code, the
10 calculation does not apply to the plan to the extent necessary to
11 avoid disqualification of the plan.

12 SECTION 9. IC 27-13-7-29 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2020]: **Sec. 29. (a)** As used in this section, "cost sharing
15 requirement" means the copayment, coinsurance, or deductible
16 required under an individual contract or a group contract to be
17 paid by or on behalf of an enrollee for a covered prescription drug.

18 (b) As used in this section, "health maintenance organization"
19 has the meaning set forth in IC 27-13-1-19. The term includes a
20 limited service health maintenance organization and a person that
21 administers health care service benefits on behalf of a health
22 maintenance organization or a limited service health maintenance
23 organization.

24 (c) As used in this section, "price protection rebate" means a
25 negotiated price concession that accrues directly or indirectly to a
26 health maintenance organization or other party on behalf of the
27 health maintenance organization, if there is an increase in the
28 wholesale acquisition cost of a prescription drug above a specified
29 threshold.

30 (d) As used in this section, "rebate" means a discount or other
31 price concession, including base price concessions, price protection
32 rebates, and performance based price concessions, that may accrue
33 directly or indirectly to a health maintenance organization from a
34 manufacturer, dispensing pharmacy, or other party in connection
35 with the dispensing or administration of a prescription drug to
36 reduce the health maintenance organization's liability for the
37 prescription drug.

38 (e) An enrollee's cost sharing requirement for a prescription
39 drug is calculated at the point of sale based on a price that is
40 reduced by an amount equal to at least seventy-five percent (75%)
41 of all rebates received or estimated to be received by the health
42 maintenance organization in connection with the dispensing or



1 administration of the prescription drug.

2 (f) Nothing in this section prohibits a health maintenance
3 organization from decreasing an enrollee's cost sharing
4 requirement by an amount greater than the amount required
5 under subsection (e).

6 (g) A health maintenance organization may not publish or
7 otherwise reveal information regarding the actual amount of
8 rebates the health maintenance organization receives on a product,
9 manufacturer, or pharmacy specific basis. This information is
10 protected as a trade secret (as defined in IC 24-2-3-2) and may not
11 be published. A health maintenance organization shall impose the
12 confidentiality protections of this subsection on any vendor or third
13 party that performs administrative services on behalf of the health
14 maintenance organization that may receive or have access to
15 rebate information.

16 SECTION 10. IC 27-13-38-7.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2020]: Sec. 7.5. (a) The definitions in
19 IC 27-13-7-23 apply throughout this section.

20 (b) A health maintenance organization shall not require an
21 enrollee to pay a cost sharing requirement of more than two
22 hundred fifty dollars (\$250) for a thirty (30) day supply of an
23 individual covered prescription drug.

24 SECTION 11. [EFFECTIVE JULY 1, 2020] (a) IC 27-2-9.1, as
25 added by this act, applies to a health plan that is issued, entered
26 into, delivered, amended, or renewed after June 30, 2020.

27 (b) IC 5-10-8-18.5, IC 5-10-8-26, and IC 5-10-8-27, each as
28 added by this act, apply to a state employee health plan that is
29 established, entered into, amended, or renewed after June 30, 2020.

30 (c) IC 27-8-5-31.5, IC 27-8-5-33, and IC 27-8-5-34, each as
31 added by this act, apply to a policy of accident and sickness
32 insurance that is issued, delivered, amended, or renewed after June
33 30, 2020.

34 (d) IC 27-13-7-28, IC 27-13-7-29, and IC 27-13-38-7.5, each as
35 added by this act, apply to an individual contract or a group
36 contract that is entered into, delivered, amended, or renewed after
37 June 30, 2020.

38 (e) This SECTION expires July 1, 2023.

