STATE OF NEW YORK

7853

2023-2024 Regular Sessions

IN ASSEMBLY

July 7, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the state finance law, in relation to an emergency insulin program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding a new article 28-CC to read as follows:

ARTICLE 28-CC

EMERGENCY INSULIN PROGRAM

Section 2894. Emergency insulin program.

§ 2894. Emergency insulin program. 1. The commissioner is authorized and directed to establish an emergency insulin program to ensure that recipients of the program can access emergency supplies of analog insulins and related supplies. The commissioner shall immediately engage analog insulin manufacturers to support the state program and facilitate quick access to affordable analog insulins in emergency situations. The commissioner shall establish standards for approval of any emergency insulin program, and analog insulin prescribing, dispensing, distribution, and possession pursuant to this section which may include, but not be limited to, standards for program directors, appropriate clinical oversight, training, record keeping and reporting. The emergency insulin program shall, pursuant to an appropriation or sufficient funds in the emergency insulin program trust fund, be available to recipients no later than April first, two thousand twenty-four.

2. (a) As used in this section:

(i) "Analog insulins" means at a minimum short-acting, rapid-acting, intermediate and long acting insulin drugs approved by the Food and Drug Administration that, when administered, to certain recipients are life-saving, and help avoid serious adverse effects associated with type one

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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diabetes and in some limited cases type two diabetes, and other medications and supplies approved by the department for such purpose.

(ii) "Health care professional" means a person licensed, registered or authorized pursuant to title eight of the education law to prescribe prescription drugs.

(iii) "Pharmacist" means a person licensed or authorized to practice pharmacy pursuant to article one hundred thirty-seven of the education law.

(iv) "Recipient" means a person: (1) diagnosed with type one diabetes, or type two insulin dependent diabetes; and (2) who is at risk of experiencing serious adverse health effects due to a lack of analog insulins; and (3) who is uninsured or underinsured; or (4) an organization registered as an emergency insulin program pursuant to this section.

(b)(i) A health care professional may prescribe by a patient-specific or non-patient-specific prescription, dispense or distribute, directly or indirectly, analog insulins to a recipient.

(ii) A pharmacist may dispense analog insulins, through a patient-specific or non-patient-specific prescription pursuant to this paragraph, to a recipient.

(iii) The provisions of this paragraph shall not be deemed to require a prescription for any analog insulins that do not otherwise require a prescription; nor shall it be deemed to limit the authority of a health care professional to prescribe, dispense or distribute, or of a pharmacist to dispense, analog insulins under any other provision of law.

(iv) Any pharmacy with twenty or more locations in the state, and any facility established pursuant to article twenty-eight of this chapter which has a drug discount program authorized by section 340B of the Federal Public Health Service act 42 U.S.C § 256b shall pursue or maintain a non-patient-specific prescription with an authorized health care professional to dispense analog insulins to a recipient upon request, as authorized by this section; and register with the department as an emergency insulin program no later than January first, two thousand twenty-four.

3. Use or dispensing of analog insulins pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability.

4. The commissioner shall immediately begin to work with analog insulin manufacturers in creating such program to ensure they are working with the state in a public-private partnership to support the state's streamlined emergency insulin program that may replicate patient support programs such manufacturers have. A manufacturer may contribute to the program through the emergency insulin program trust fund established pursuant to section ninety-five-1 of the state finance law.

5. The commissioner may establish a sliding scale for cost sharing for certain recipients which shall not exceed one hundred dollars for a thirty-day supply of analog insulins and related supplies.

6. The commissioner shall publish findings on the emergency insulin program including but not limited to the number of programs established, the number of recipients served, the types and amounts of analog insulins provided, the costs and savings associated with the program, and what public-private partnerships the state has facilitated to support this program to the governor and the chairs of the senate and assembly health committees within one year of the effective date of this article and every two years thereafter.

§ 2. The state finance law is amended by adding a new section 95-1 to read as follows:

§ 95-1. Emergency insulin program trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "emergency insulin program trust fund".

2. Such fund shall consist of all monies appropriated for its purpose and all monies received, or to be paid into or credited to such fund by analog insulin manufacturers pursuant to subdivision four of section twenty-eight hundred ninety-four of the public health law. Nothing contained herein shall prevent the state from receiving assessments, grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. Monies of the fund shall be expended only to support the emergency insulin program established pursuant to article twenty-eight-CC of the public health law administered by the commissioner of health and for funding emergency access to analog insulins.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of health.

§ 3. This act shall take effect immediately.