

## OFFICE OF POLICY AND LEGAL ANALYSIS

Date: February 8, 2022

To: Joint Standing Committee on Health & Human Services

From: Samuel Senft, Esq., MPH, Legislative Analyst

### **LD 1729 Resolve, To Assess the Feasibility of the Production of Insulin in Maine**

**SUMMARY:** This resolve requires the Department of Health and Human Services to convene a commission consisting of representatives of other government agencies or entities and interested groups to assess the feasibility of having the University of Maine System and other appropriate institutions or a public-private partnership between the University of Maine System, other appropriate institutions and a licensed drug manufacturer produce insulin in the State and provide such insulin at reduced, low or no cost to low-income residents of the State. The resolve requires the commission to assess the feasibility of such a program by reviewing factors including potential savings and additional costs to the University of Maine System and the State, the number of individuals who would benefit from such a program, potential regulatory or legal obstacles, available alternatives to providing insulin to low-income individuals at low or no cost and to seek input from members of the Legislature when making its assessment. The resolve requires the commission to provide a report to the Joint Standing Committee on Health and Human Services by January 1, 2022 and authorizes the committee to introduce legislation based on that report during the Second Regular Session of the 130th Legislature.

### **ISSUES FROM TESTIMONY:**

- A number of commenters testified about the expense of insulin and the dangers of insulin rationing.
- A number of commenters noted the increase in the price of insulin over the past decade.
- The Maine CDC noted that the cost for treatment remains a barrier for many people in Maine with diabetes. The CDC also noted that there will also be significant research required to carry out this proposal, and Maine CDC currently lacks the capacity to carry out that work.

### **SPONSOR PROPOSED AMENDMENT**

The sponsor has proposed the following amendments:

- Add the following to **Sec. 2 Feasibility Assessment:**
  8. Options for capping co-pays on insulin provided through private insurers;
  9. The potential for the state to engage in volume purchasing of insulin at reduced cost and the mechanisms by which the state could establish a program to distribute insulin to residents of the state;
  10. Opportunities to establish an inter-state compact with other New England states to reduce insulin costs in compact states;

11. Opportunities to establish a public entity to manage insulin purchasing and distribution with the possibility of eventual transition to a privately funded entity;
12. Opportunities to establish a model facility to affordably manufacture and supply insulin to Maine residents.
13. Opportunities to procure dedicated funding to support the manufacture and distribution of insulin to Maine residents.

- Add Sec. 4. Support for pilot. Resolved: That the Legislature shall submit a letter to the Centers for Medicare and Medicaid Services and to the Federal Drug Administration expressing support for the establishment of a federal pilot program focused on the domestic manufacture and distribution of low cost insulin.
- Change the language regarding introduction of legislation by the HHS Committee from the second session of the 130th to the first session of the 131st.

#### **DRAFTING ISSUES/ ANALYSIS**

- **LD 2096:** Last session, the legislature passed [LD 2096, An Act To Save Lives by Capping the Out-of-pocket Cost of Certain Medications](#). As finally passed that bill provided that “A carrier that provides coverage for prescription insulin drugs may not impose any deductible, copayment, coinsurance or other cost sharing requirement on an enrollee for that coverage that results in out-of-pocket costs to the enrollee that exceed \$35 per prescription for a 30-day supply of covered prescription insulin drugs, regardless of the amount of insulin needed to fill the enrollee's insulin prescriptions.”

#### **ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:**

- The committee requested the following research citations, provided by Dr. Alvarado:
  - Olson, Luke and Brian Wendling. 2013. The Effect of Generic Drug Competition on Generic Drug Prices During the Hatch-Waxman 180-Day Exclusivity Period. Bureau of Economics, Federal Trade Commission.  
<https://www.ftc.gov/sites/default/files/documents/reports/estimating-effect-entry-generic-drug-prices-using-hatch-waxman-exclusivity/wp317.pdf>
  - Nguyen, N.X., Sheingold, S.H., Tarazi, W. et al. Effect of Competition on Generic Drug Prices. *Appl Health Econ Health Policy* (2021).  
<https://doi.org/10.1007/s40258-021-00705-w>
- The committee requested information on other states’ efforts to support local production of insulin products
  - California is taking steps towards partnering with manufacturers to produce insulin. Senate Bill 852, which was signed into law in 2020 requires the California Health and Human Services Agency (CHHSA) to enter into partnerships to increase patient access to affordable drugs. It specifically requires CHHSA to enter into partnerships to produce or distribute generic prescription

drugs and at least one form of insulin, provided that a viable pathway for manufacturing a more affordable form of insulin exists at a price that results in savings. [Press release](#)

## **OTHER RESOURCES**

- Kyalwazi M, Hurtado C. The California Insulin Crisis Explained: A Primer on Insulin Pricing, Past Legislative Action, and the Path Forward. California Initiative for Health Equity & Action. Berkeley, CA June 2020. url: [https://healthequity.berkeley.edu/sites/default/files/cal-ihca\\_insulin\\_affordability\\_policy\\_brief\\_final.pdf](https://healthequity.berkeley.edu/sites/default/files/cal-ihca_insulin_affordability_policy_brief_final.pdf)
- [Open Insulin Foundation](#)

**FISCAL IMPACT: Not yet determined**