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37667

Resolution

Authorize the City Attorney to take legal action against insulin manufacturers, pharmacy benefit managers, and other parties to recover public funds expended by the City as a result of the unlawful inflation of insulin prices

Adopted

WHEREAS, diabetes is an epidemic, impacting over roughly ten percent of people in the United States.

WHEREAS, insulin is a necessary and life-saving medication to treat diabetes.

WHEREAS, in general terms, the City of Portland has spent millions of dollars over the last several years, through its self-insured health insurance to cover the cost of insulin for City employees and their dependents.

WHEREAS, insulin prices have dramatically increased over the last twenty years despite limited innovation and decreased costs associated with manufacturing. Since 2003, the list price of some insulins has increased by more than 1000%.

WHEREAS, there is evidence that insulin manufacturers, pharmacy benefit managers, and potentially others have artificially inflated the price of insulin, resulting in increased out of pocket expenditures for self-insured healthcare plans like the City of Portland.

WHEREAS, three drug companies, Eli Lilly, Novo Nordisk, and Sanofi, manufacturer nearly all insulin purchased in the United States.

WHEREAS, Pharmacy Benefit Managers, including Express Scripts, CVS Caremark, and Optum Rx, have developed a market where they demand large rebates and other payments for preferred formulary placement. This system of rebates has resulted in manufacturers charging artificially increased prices for insulin to both payors, like the City of Portland's self-insured plan, and plan members.

WHEREAS, the law provides a potential remedy for the City to recover money wrongfully paid for artificially inflated insulin prices in connection with the City's self-insured health insurance plan.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[City Attorney](#)

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

June 26, 2024

Time Requested

15 minutes

WHEREAS, it is in the public interest for the City to recover the public funds expended because distortions to market prices resulted in improper and excessive expenditures for insulin.

NOW, THEREFORE, BE IT RESOLVED, that, the City Attorney or their designee is authorized to commence an action in any competent tribunal to protect the City's rights and recover damages and/or any other relief against insulin manufacturers, pharmacy benefit managers, and others as identified in connection with the pricing of insulin, for which there is a good faith basis to assert legal claims, and to pursue to conclusion in any higher tribunal and to make any stipulation, agreement, or admission as in their judgment may be in the best interest of the City. The City Attorney is further authorized to retain outside counsel to assist in the prosecution of such litigation if in their judgment doing so is in the best interest of the City.

Impact Statement

Purpose of Proposed Legislation and Background Information

The City of Portland will join other municipal jurisdictions who utilize self-funded health insurance plans in suing insulin manufacturers and pharmacy benefit managers. Pharmacy benefit managers and manufacturers have created a market that has artificially inflated the price of insulin for payors, like the City of Portland's self-insured plan. The City of Portland seeks to recover amounts wrongfully paid for the inflated insulin prices.

Financial and Budgetary Impacts

There will be minor out-of-pocket expenses. The City will be represented by outside counsel on a contingency basis and in-house lawyers in the City Attorney's Office will provide additional services.

Community Impacts and Community Involvement

None are expected at this time. This Resolution involves direction from the Council to its lawyers in the City Attorney's Office, based on privileged attorney-client communications, so there was no public outreach or input. There are no expected community impacts at this time.

100% Renewable Goal

Pursuing this action would have no impacts on the City's total energy use or renewable energy use.

Budget Office Financial Impact Analysis

This resolution authorizes the city to join with other municipalities in suing manufacturers of insulin and pharmacy benefit managers for creating a market that artificially inflates prices. The cost of joining in this litigation is

expected to be minimal, absorbable within existing budget, and contingent on outside counsel with additional services potentially handled in house.

Document History

Item 589 Regular Agenda in [June 26, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/6/26)
(<https://www.portland.gov/council/agenda/2024/6/26>)

City Council

Adopted

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Absent

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea