

2SSB 5602 - H AMD 658

By Representative Macri

ADOPTED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares:

4 (1) It is the public policy of this state to provide the maximum
5 access to reproductive health care and reproductive health care
6 coverage for all people in Washington state.

7 (2) In 2018, the legislature passed Substitute Senate Bill No.
8 6219. Along with reproductive health care coverage requirements, the
9 bill mandated a literature review of barriers to reproductive health
10 care. As documented by the report submitted to the legislature on
11 January 1, 2019, young people, immigrants, people living in rural
12 communities, transgender and gender nonconforming people, and people
13 of color still face significant barriers to getting the reproductive
14 health care they need.

15 (3) Washingtonians who are transgender and gender nonconforming
16 have important reproductive health care needs as well. These needs go
17 unmet when, in the process of seeking care, transgender and gender
18 nonconforming people are stigmatized or are denied critical health
19 services because of their gender identity or expression.

20 (4) The literature review mandated by Substitute Senate Bill No.
21 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,
22 thirty-two percent of transgender respondents in Washington State
23 reported that in the previous year they did not see a doctor when
24 needed because they could not afford it."

25 (5) Existing state law should be enhanced to ensure greater
26 coverage of and timely access to reproductive health care for the
27 benefit of all Washingtonians, regardless of gender identity or
28 expression.

29 (6) Because stigma is also a key barrier to access to
30 reproductive health care, all Washingtonians, regardless of gender
31 identity, should be free from discrimination in the provision of

1 health care services, health care plan coverage, and in access to
2 publicly funded health coverage.

3 (7) All people should have access to robust reproductive health
4 services to maintain and improve their reproductive health.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
6 RCW to read as follows:

7 (1) In the provision of reproductive health care services through
8 programs under this chapter, the authority, managed care plans, and
9 providers that administer or deliver such services may not
10 discriminate in the delivery of a service provided through a program
11 of the authority based on the covered person's gender identity or
12 expression.

13 (2) The authority and any managed care plans delivering or
14 administering services purchased or contracted for by the authority,
15 may not issue automatic initial denials of coverage for reproductive
16 health care services that are ordinarily or exclusively available to
17 individuals of one gender, based on the fact that the individual's
18 gender assigned at birth, gender identity, or gender otherwise
19 recorded in one or more government-issued documents, is different
20 from the one to which such health services are ordinarily or
21 exclusively available.

22 (3) Denials as described in subsection (2) of this section are
23 prohibited discrimination under chapter 49.60 RCW.

24 (4) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Gender expression" means a person's gender-related
27 appearance and behavior, whether or not stereotypically associated
28 with the person's gender assigned at birth.

29 (b) "Gender identity" means a person's internal sense of the
30 person's own gender, regardless of the person's gender assigned at
31 birth.

32 (c) "Reproductive health care services" means any medical
33 services or treatments, including pharmaceutical and preventive care
34 service or treatments, directly involved in the reproductive system
35 and its processes, functions, and organs involved in reproduction, in
36 all stages of life. Reproductive health care services does not
37 include infertility treatment.

38 (d) "Reproductive system" includes, but is not limited to:
39 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

1 (5) This section must not be construed to authorize
2 discrimination on the basis of a covered person's gender identity or
3 expression in the administration of any other medical assistance
4 programs administered by the authority.

5 **Sec. 3.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to
6 read as follows:

7 (1) A health plan (~~((issued or renewed on or after January 1,~~
8 ~~2019,))~~ or student health plan, including student health plans deemed
9 by the insurance commissioner to have a short-term limited purpose or
10 duration or to be guaranteed renewable while the covered person is
11 enrolled as a regular full-time undergraduate or graduate student at
12 an accredited higher education institution, shall provide coverage
13 for:

14 (a) All contraceptive drugs, devices, and other products,
15 approved by the federal food and drug administration, including
16 over-the-counter contraceptive drugs, devices, and products, approved
17 by the federal food and drug administration. This includes condoms,
18 regardless of the gender or sexual orientation of the covered person,
19 and regardless of whether they are to be used for contraception or
20 exclusively for the prevention of sexually transmitted infections;

21 (b) Voluntary sterilization procedures;

22 (c) The consultations, examinations, procedures, and medical
23 services that are necessary to prescribe, dispense, insert, deliver,
24 distribute, administer, or remove the drugs, devices, and other
25 products or services in (a) and (b) of this subsection(~~(-)~~);

26 (d) The following preventive services:

27 (i) Screening for physical, mental, sexual, and reproductive
28 health care needs that arise from a sexual assault; and

29 (ii) Well-person preventive visits;

30 (e) Medically necessary services and prescription medications for
31 the treatment of physical, mental, sexual, and reproductive health
32 care needs that arise from a sexual assault; and

33 (f) The following reproductive health-related over-the-counter
34 drugs and products approved by the federal food and drug
35 administration: Prenatal vitamins for pregnant persons; and breast
36 pumps for covered persons expecting the birth or adoption of a child.

37 (2) The coverage required by subsection (1) of this section:

38 (a) May not require copayments, deductibles, or other forms of
39 cost sharing(~~(-)~~);

1 (i) Except for:

2 (A) The medically necessary services and prescription medications
3 required by subsection (1)(e) of this section; and

4 (B) The drugs and products in subsection (1)(f) of this section;
5 or

6 (ii) Unless the health plan is offered as a qualifying health
7 plan for a health savings account. For such a qualifying health plan,
8 the carrier must establish the plan's cost sharing for the coverage
9 required by subsection (1) of this section at the minimum level
10 necessary to preserve the enrollee's ability to claim tax exempt
11 contributions and withdrawals from ((his or her)) the enrollee's
12 health savings account under internal revenue service laws and
13 regulations; and

14 (b) May not require a prescription to trigger coverage of
15 over-the-counter contraceptive drugs, devices, and products, approved
16 by the federal food and drug administration, except those
17 reproductive health related drugs and products as set forth in
18 subsection (1)(f) of this section.

19 (3) A health carrier may not deny the coverage required in
20 subsection (1) of this section because an enrollee changed ((his or
21 her)) the enrollee's contraceptive method within a twelve-month
22 period.

23 (4) Except as otherwise authorized under this section, a health
24 benefit plan may not impose any restrictions or delays on the
25 coverage required under this section, such as medical management
26 techniques that limit enrollee choice in accessing the full range of
27 contraceptive drugs, devices, or other products, approved by the
28 federal food and drug administration.

29 (5) Benefits provided under this section must be extended to all
30 enrollees, enrolled spouses, and enrolled dependents.

31 (6) This section may not be construed to allow for denial of care
32 on the basis of race, color, national origin, sex, sexual
33 orientation, gender expression or identity, marital status, age,
34 citizenship, immigration status, or disability.

35 (7) A health plan or student health plan, including student
36 health plans deemed by the insurance commissioner to have a short-
37 term limited purpose or duration or to be guaranteed renewable while
38 the covered person is enrolled as a regular full-time undergraduate
39 or graduate student at an accredited higher education institution,
40 issued or renewed on or after January 1, 2021, may not issue

1 automatic initial denials of coverage for reproductive health care
2 services that are ordinarily or exclusively available to individuals
3 of one gender, based on the fact that the individual's gender
4 assigned at birth, gender identity, or gender otherwise recorded in
5 one or more government-issued documents, is different from the one to
6 which such health services are ordinarily or exclusively available.

7 (8) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Gender expression" means a person's gender-related
10 appearance and behavior, whether or not stereotypically associated
11 with the person's gender assigned at birth.

12 (b) "Gender identity" means a person's internal sense of the
13 person's own gender, regardless of the person's gender assigned at
14 birth.

15 (c) "Reproductive health care services" means any medical
16 services or treatments, including pharmaceutical and preventive care
17 service or treatments, directly involved in the reproductive system
18 and its processes, functions, and organs involved in reproduction, in
19 all stages of life. Reproductive health care services does not
20 include infertility treatment.

21 (d) "Reproductive system" includes, but is not limited to:
22 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

23 (e) "Well-person preventive visits" means the preventive annual
24 visits recommended by the federal health resources and services
25 administration women's preventive services guidelines, with the
26 understanding that those visits must be covered for women, and when
27 medically appropriate, for transgender, nonbinary, and intersex
28 individuals.

29 (9) This section may not be construed to authorize discrimination
30 on the basis of gender identity or expression, or perceived gender
31 identity or expression, in the provision of nonreproductive health
32 care services.

33 (10) The commissioner, under RCW 48.30.300, and the human rights
34 commission, under chapter 49.60 RCW shall share enforcement authority
35 over complaints of discrimination under this section as set forth in
36 RCW 49.60.178.

37 (11) The commissioner may adopt rules to implement this section.

38 NEW SECTION. Sec. 4. A new section is added to chapter 48.43
39 RCW to read as follows:

1 (1) The legislature intends to codify the state's current
2 practice of requiring health carriers to bill enrollees with a single
3 invoice and to segregate into a separate account the premium
4 attributable to abortion services for which federal funding is
5 prohibited. Washington has achieved full compliance with section 1303
6 of the federal patient protection and affordable care act by
7 requiring health carriers to submit a single invoice to enrollees and
8 to segregate into a separate account the premium amounts attributable
9 to coverage of abortion services for which federal funding is
10 prohibited. Further, section 1303 states that the act does not
11 preempt or otherwise have any effect on state laws regarding the
12 prohibition of, or requirement of, coverage, funding, or procedural
13 requirements on abortions.

14 (2) In accordance with RCW 48.43.073 related to requirements for
15 coverage and funding of abortion services, an issuer offering a
16 qualified health plan must:

17 (a) Bill enrollees and collect payment through a single invoice
18 that includes all benefits and services covered by the qualified
19 health plan; and

20 (b) Include in the segregation plan required under applicable
21 federal and state law a certification that the issuer's billing and
22 payment processes meet the requirements of this section.

23 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
24 this act, referencing this act by bill or chapter number, is not
25 provided by June 30, 2019, in the omnibus appropriations act, this
26 act is null and void.

27 NEW SECTION. **Sec. 6.** This act may be known and cited as the
28 reproductive health care access for all act.

29 NEW SECTION. **Sec. 7.** (1) Section 2 of this act takes effect
30 January 1, 2020.

31 (2) Section 3 of this act takes effect January 1, 2021.

32 NEW SECTION. **Sec. 8.** Section 4 of this act is necessary for the
33 immediate preservation of the public peace, health, or safety, or
34 support of the state government and its existing public institutions,
35 and takes effect immediately."

1 Correct the title.

EFFECT: Removes the requirement for the Health Care Authority to establish a family planning and related service program for persons over 19 who would be eligible for family planning services under Medicaid, except for the person's status as an undocumented or nonqualified resident.

Removes the requirement that medical assistance and state and school employee health plans cover screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus, pre-exposure prophylaxis, post-exposure prophylaxis, and condoms at no cost-sharing to the client.

Requires health carriers offering a qualified health plan to bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan. Requires that the segregation plans of health carriers include a certification that the health carrier's billing and payment processes meet the Office of the Insurance Commissioner's requirements for the segregation of premiums.

Changes the term "body parts" to "reproductive system" and eliminates the endocrine system from the definition. Specifies that the term "reproductive health care services" includes medical services (rather than only medical treatments) which include preventive care services and treatments. Specifies that the term "reproductive health care services" does not include infertility treatment. Specifies that the term "well-person preventive visits" applies to women and, when medically appropriate, to transgender, nonbinary, and intersex individuals.

Removes the requirement that health plans and student health plans cover: (1) Screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus; and (2) pre-exposure prophylaxis and postexposure prophylaxis.

Corrects the statutory location of provisions related to the public employees' benefits board and school employees' benefits board.

Adds a null and void clause. The bill is null and void unless funded in the budget.

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