
SUBSTITUTE HOUSE BILL 1957

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Dellwo, Wolfe, R. Meyers, Pruitt, L. Johnson, J. Kohl, Conway and Karahalios; by request of Insurance Commissioner)

Read first time 03/03/93.

1 AN ACT Relating to the creation of the medical health coverage
2 benefit determination committee; adding a new chapter to Title 48 RCW;
3 and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that insurers, health
6 care service contractors, and health maintenance organizations employ
7 a variety of methods to determine whether a particular health care
8 service or treatment will be denied because such service or treatment
9 is considered by the insurer, contractor, or health maintenance
10 organization to be experimental or investigative. The denial of
11 coverage may prevent access to necessary health care services or
12 treatment when the person seeking coverage has no other method of
13 affording such health care service or treatment.

14 The legislature further finds that similarly situated persons with
15 the same health care need but with different insurers face the
16 possibility that one insurer will deny coverage while the other will
17 permit coverage. Moreover, if the insurer, contractor, or health
18 maintenance organization denies coverage, the person must resort to

1 expensive and protracted legal proceedings when time is of the essence
2 in obtaining needed health care service or treatment.

3 The inconsistency in coverage determinations and the need for
4 expeditious and inexpensive resolution of coverage disputes requires an
5 impartial body to build a consistent record of coverage determination
6 and to provide efficient resolution of coverage disputes.

7 NEW SECTION. **Sec. 2.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Board" means the health care coverage determination board.

11 (2) "Consumer" means an insured, subscriber, enrolled participant,
12 or beneficiary of an insurer.

13 (3) "Insurer" means:

14 (a) Every insurer, as defined in RCW 48.01.050, having a
15 certificate or authority to transact disability insurance as defined in
16 RCW 48.11.030, in this state;

17 (b) Every health care service contractor, as defined in RCW
18 48.44.010(3), registered to transact business in this state;

19 (c) Every health maintenance organization, as defined in RCW
20 48.46.020(1), registered to transact business in this state;

21 (d) The Washington basic health plan, as defined in RCW
22 70.47.020(1);

23 (e) The Washington state health care authority, as defined in
24 chapter 41.05 RCW;

25 (f) Every local government self-insured health and welfare benefit
26 plan or program regulated under chapter 48.62 RCW; or

27 (g) The Washington state health insurance pool as defined in
28 chapter 48.41 RCW.

29 (4) "Medical agent" means the person employed or appointed by the
30 board to consider and review a consumer request for a coverage
31 determination under this chapter.

32 NEW SECTION. **Sec. 3.** (1) There is hereby created in the office of
33 the insurance commissioner the Washington health care coverage
34 determination board consisting of five members appointed by the
35 commissioner on the basis of their knowledge and experience in health
36 care services. In appointing such members the commissioner shall seek
37 to appoint members from diverse health care backgrounds including, but

1 not limited to, medical research, pharmacology, oncology, internal
2 medicine, gynecology, and pediatrics.

3 (2) Members of the board shall be appointed for a term of three
4 years and until their successors are appointed. In the case of a
5 vacancy, it shall be filled by appointment by the commissioner for the
6 unexpired portion of the term in which such vacancy occurs. The terms
7 of the first three members of the board shall be staggered so that one
8 member shall be appointed to serve until June 1, 1994, one member until
9 June 1, 1995, and one member until June 1, 1996.

10 (3) Any member of the board may be removed for inefficiency,
11 malfeasance, or misfeasance.

12 (4) The board shall operate on a part-time basis and shall receive
13 compensation on the basis of seventy-five dollars for each day spent in
14 performance of his or her duties, but such compensation shall not
15 exceed ten thousand dollars in a fiscal year. Each board member shall
16 receive reimbursement for travel expenses incurred in the discharge of
17 his or her duties in accordance with RCW 43.03.050 and 43.03.060.

18 (5) The board shall as soon as practicable after the initial
19 appointment of the members, meet and elect a chairperson and shall at
20 least biennially thereafter meet and elect such chairperson.

21 (6) The principal office of the board shall be in the office of the
22 insurance commissioner at the state capital, but it may sit or hold
23 hearings at any other place in the state. A majority of the board
24 shall constitute a quorum for rendering orders or decisions, adopting
25 rules necessary for the conduct of its powers and duties, or
26 transacting other official business, and may act though one position on
27 the board is vacant. One or more members may hold hearings and take
28 testimony to be reported for action by the board when authorized by
29 rule or order of the board. The board shall perform all the powers and
30 duties specified in this chapter or as otherwise provided by law.

31 NEW SECTION. **Sec. 4.** (1) The board shall have jurisdiction to
32 decide appeals by insurers and consumers from determinations by a
33 medical agent appointed or employed by the board to consider and review
34 a consumer request for a coverage determination under this chapter.

35 (2) The board shall employ or from time to time shall appoint a
36 medical agent to consider and review consumer requests for review of
37 insurer decisions denying coverage of health care services or
38 treatments because such services or treatments are considered by the

1 insurer to be experimental or investigative. The medical agent must
2 have demonstrated knowledge and abilities in health care services
3 sufficient to make findings of fact and render an opinion related to
4 consumer requests for coverage determinations under this chapter.

5 (3) Appeals to the board shall be governed by and the board shall
6 have all powers conferred upon presiding officers under chapter 34.05
7 RCW. The board shall make findings of fact and prepare a written
8 decision in each case decided by it, and such findings and decision
9 shall be effective upon being signed by three or more members of the
10 board and upon being filed at the board's principal office and shall be
11 open to public inspection at all reasonable times.

12 (4) The board shall maintain at its principal office a copy of its
13 findings and decisions available for public inspection.

14 (5) The medical agent in making a determination of whether an
15 insurer's denial of coverage should be upheld or changed shall:

16 (a) Take into account findings, studies, or research conducted at
17 qualified research centers in this country and abroad;

18 (b) Consider whether treating physicians find the drug or treatment
19 efficacious or necessary for the health or survival of the patient, or
20 whether there is a potential benefit to the public as a whole, as for
21 example, where a disease is rare and treatment for it may remain
22 experimental for the foreseeable future; and

23 (c) Consider other similar relevant information.

24 (6) After considering the facts in each particular case, the
25 medical agent shall issue a written report detailing his or her
26 findings and conclusions and shall render a decision upholding or
27 objecting to the insurer's denial of coverage. The medical agent's
28 opinion shall be considered binding upon the consumer and the insurer
29 unless appealed to the board by either the consumer or the insurer
30 within fourteen days of receipt of notice of the agent's decision.

31 (7) The insurance commissioner shall provide the board with
32 administrative, material, and staff support necessary for the proper
33 functioning of the board.

34 NEW SECTION. **Sec. 5.** The commissioner shall adopt rules requiring
35 all insurers to include in their policy, contract, agreement, or
36 similar health care coverage forms a provision advising consumers that
37 in the event of a denial of coverage based upon a decision by the
38 insurer that such coverage is experimental or investigative, the

1 consumer may appeal the insurer's decision to the insurance
2 commissioner's office for review by the medical agent.

3 NEW SECTION. **Sec. 6.** (1) Based upon the decisions of the medical
4 agent and the board, the commissioner may from time to time adopt
5 guidelines for insurer determinations of whether a health care service
6 or treatment is experimental or investigative.

7 (2) The commissioner shall publish at least once a year, and
8 disseminate to the public and insurers, a summary of the medical
9 agent's and the board's decisions for each individual, drug, or
10 procedure considered.

11 (3) Whenever it appears from consistent decisions of the medical
12 agent or board that a health care service or treatment is no longer
13 considered experimental or investigative, the commissioner may adopt
14 rules prohibiting the denial of coverage of such health care service or
15 treatment upon that basis.

16 NEW SECTION. **Sec. 7.** This chapter shall expire on July 1, 1998.

17 NEW SECTION. **Sec. 8.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act shall
22 constitute a new chapter in Title 48 RCW.

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