

SENATE BILL REPORT

SB 6073

As of January 21, 2014

Title: An act relating to the treatment of eosinophilic gastrointestinal associated disorders.

Brief Description: Concerning the treatment of eosinophilic gastrointestinal associated disorders.

Sponsors: Senators Frockt, Tom, Keiser, Mullet, Cleveland, Pedersen and Darneille.

Brief History:

Committee Activity: Health Care: 1/20/14.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: House bill 1216, passed in 2013, directed the Department of Health (Department) to complete a sunrise review of a potential mandated benefit to require coverage of formulas necessary for the treatment of eosinophilic gastrointestinal associated disorders (EGIDs). The Department completed the sunrise review in December, with a recommendation to add a mandate to require coverage of elemental formulas to treat EGIDs, finding that the proposal is in the best interest of the public and that the benefits outweigh the costs.

Eosinophils are a type of white blood cells that contain proteins designed to help the body fight infection. EGIDs are chronic inflammatory disorders that result from an abnormally high number of eosinophils in the digestive system. Treatments for EGIDs include corticosteroids and dietary therapies. A patient on a restrictive diet may require an amino acid-based elemental formula to provide necessary nutrients. Many insurance carriers do not cover the formula if it is provided orally, but may when delivered via feeding tube.

The federal Affordable Care Act (ACA) requires most small group and individual health plans to offer a package of benefits known as the essential health benefits. A state must defray the costs to consumers for state-mandated benefits that are not included in the state's essential health benefits package. To determine the essential health benefits, federal law allows a state to choose a benchmark plan from a list of options and to supplement that plan to ensure it covers all of the essential health benefit categories specified in the ACA. Washington chose the largest small group plan in the state as its benchmark, which means

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most of the state's existing benefit mandates are included in the state's essential health benefit package. The state may not change its benchmark until at least 2016, when the federal government will revisit its approach for designating the essential health benefits.

State law requires the Insurance Commissioner to submit a list of state-mandated health benefits to the Legislature, indicating benefit mandates that would result in federally imposed costs to the state. The list must include the anticipated costs to the state of each benefit on the list. The Insurance Commissioner may enforce a benefit on the list only if funds are appropriated by the Legislature for that purpose.

Summary of Bill: Health benefit plans issued or renewed after December 31, 2015, must offer benefits or coverage for medically necessary elemental formula, regardless of delivery method, when a licensed health care provider with prescriptive authority: (1) diagnoses a patient with EGIDs; and (2) orders and supervises the use of the elemental formula.

The cost sharing for the formula must be included in the expenses that count toward an enrollee's out-of-pocket maximum, unless prohibited by federal law or regulation. A health benefit plan may require prior authorization or impose other appropriate utilization controls in approving coverage for medically necessary elemental formula.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We worked this bill last year and agreed to send the bill to sunrise review. There is a very small population, perhaps 100 individuals many of which are children, and many private plans do not cover the formula unless it is delivered through a feeding tube. This results in huge out-of-pocket expenses for families that want a less invasive delivery method. The formulas can be \$1,200 per month and are the last-resort treatment option that is available for many. EGIDs are relatively new disorders and there is not data tracking the lifetime experience yet. It appears many patients are on the formulas for two to three years.

OTHER: We supported moving the bill to sunrise review and have no objection to the concept. We cover the elemental formulas and medical foods for phenylketonuria through the durable medical equipment benefits and the formulas that are available online are more cost effective than through the pharmacy. We object to subsection two with the application of cost sharing to the out-of-pocket maximum. The new benefit is not included in the essential health benefits that accrue to the out-of-pocket maximum, and it is not eligible for federal subsidies on the Exchange.

Persons Testifying: PRO: Senator Frockt, prime sponsor; Jeff Schwartz, Sam Schwartz, family with EGID; Dr. Kevin Doods, pediatrician allergist.

OTHER: Sheela Tallman, Premera Blue Cross; Chris Bandoli, Regence Blue Shield.