
SENATE BILL 5841

State of Washington 59th Legislature 2005 Regular Session

By Senators Keiser, Thibaudeau, Kline, Kohl-Welles and Shin

Read first time 02/09/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the prevention, diagnosis, and treatment of
2 asthma; amending RCW 19.27.190, 41.05.013, and 74.09.520; adding a new
3 section to chapter 28A.210 RCW; adding new sections to chapter 41.05
4 RCW; adding a new section to chapter 48.44 RCW; adding a new section to
5 chapter 48.46 RCW; adding a new section to chapter 43.70 RCW; and
6 creating a new section.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that:

9 (1) Asthma is a dangerous disease that is growing in prevalence in
10 Washington state. An estimated five hundred thousand residents of the
11 state suffer from asthma. Since 1995, asthma has claimed more than
12 five hundred lives, caused more than twenty-five thousand
13 hospitalizations with costs of more than one hundred twelve million
14 dollars, and resulted in seven million five hundred thousand missed
15 school days. School nurses have identified over four thousand children
16 with life-threatening asthma in the state's schools.

17 (2) While asthma is found among all populations, its prevalence
18 disproportionately affects low-income and minority populations.
19 Untreated asthma affects worker productivity and results in unnecessary

1 absences from work. In many cases, asthma triggers present in
2 substandard housing and poorly ventilated workplaces contribute
3 directly to asthma.

4 (3) Although research continues into the causes and cures for
5 asthma, national consensus has been reached on treatment guidelines.
6 People with asthma who are being treated in accordance with these
7 guidelines are far more likely to control the disease than those who
8 are not being treated and therefore are less likely to experience
9 debilitating or life-threatening asthma episodes, less likely to be
10 hospitalized, and less likely to need to curtail normal school or work
11 activities. With treatment, most people with asthma are able to live
12 normal, active lives.

13 (4) Up to one-third of the people with asthma have not had their
14 disease diagnosed. Among those with diagnosed asthma, thirty to fifty
15 percent are not receiving medicines that are needed to control the
16 disease, and approximately eighty percent of diagnosed asthmatics are
17 not getting yearly spirometry measurements that are a key element in
18 monitoring the disease.

19 **Sec. 2.** RCW 19.27.190 and 1996 c 186 s 501 are each amended to
20 read as follows:

21 (1)(a) Not later than January 1, 1991, the state building code
22 council, in consultation with the department of community, trade, and
23 economic development, shall establish interim requirements for the
24 maintenance of indoor air quality in newly constructed residential
25 buildings. In establishing the interim requirements, the council shall
26 take into consideration differences in heating fuels and heating system
27 types. These requirements shall be in effect July 1, 1991, through
28 June 30, 1993.

29 (b) The interim requirements for new electrically space heated
30 residential buildings shall include ventilation standards which provide
31 for mechanical ventilation in areas of the residence where water vapor
32 or cooking odors are produced. The ventilation shall be exhausted to
33 the outside of the structure. The ventilation standards shall further
34 provide for the capacity to supply outside air to each bedroom and the
35 main living area through dedicated supply air inlet locations in walls,
36 or in an equivalent manner. At least one exhaust fan in the home shall

1 be controlled by a dehumidistat or clock timer to ensure that
2 sufficient whole house ventilation is regularly provided as needed.

3 (c)(i) For new single family residences with electric space heating
4 systems, zero lot line homes, each unit in a duplex, and each attached
5 housing unit in a planned unit development, the ventilation standards
6 shall include fifty cubic feet per minute of effective installed
7 ventilation capacity in each bathroom and one hundred cubic feet per
8 minute of effective installed ventilation capacity in each kitchen.

9 (ii) For other new residential units with electric space heating
10 systems the ventilation standards may be satisfied by the installation
11 of two exhaust fans with a combined effective installed ventilation
12 capacity of two hundred cubic feet per minute.

13 (iii) Effective installed ventilation capacity means the capability
14 to deliver the specified ventilation rates for the actual design of the
15 ventilation system. Natural ventilation and infiltration shall not be
16 considered acceptable substitutes for mechanical ventilation.

17 (d) For new residential buildings that are space heated with other
18 than electric space heating systems, the interim standards shall be
19 designed to result in indoor air quality equivalent to that achieved
20 with the interim ventilation standards for electric space heated homes.

21 (e) The interim requirements for all newly constructed residential
22 buildings shall include standards for indoor air quality pollutant
23 source control, including the following requirements: All structural
24 panel components of the residence shall comply with appropriate
25 standards for the emission of formaldehyde; the back-drafting of
26 combustion by-products from combustion appliances shall be minimized
27 through the use of dampers, vents, outside combustion air sources, or
28 other appropriate technologies; and, in areas of the state where
29 monitored data indicate action is necessary to inhibit indoor radon gas
30 concentrations from exceeding appropriate health standards, entry of
31 radon gas into homes shall be minimized through appropriate foundation
32 construction measures. Standards for heating and ventilation systems
33 shall be developed that minimize the presence of common asthma triggers
34 such as dust mites and animal dander in recirculated air.

35 (2) No later than January 1, 1993, the state building code council,
36 in consultation with the department of community, trade, and economic
37 development, shall establish final requirements for the maintenance of
38 indoor air quality in newly constructed residences to be in effect

1 beginning July 1, 1993. For new electrically space heated residential
2 buildings, these requirements shall maintain indoor air quality
3 equivalent to that provided by the mechanical ventilation and indoor
4 air pollutant source control requirements included in the February 7,
5 1989, Bonneville power administration record of decision for the
6 environmental impact statement on new energy efficient homes programs
7 (DOE/EIS-0127F) built with electric space heating. In residential
8 units other than single family, zero lot line, duplexes, and attached
9 housing units in planned unit developments, ventilation requirements
10 may be satisfied by the installation of two exhaust fans with a
11 combined effective installed ventilation capacity of two hundred cubic
12 feet per minute. For new residential buildings that are space heated
13 with other than electric space heating systems, the standards shall be
14 designed to result in indoor air quality equivalent to that achieved
15 with the ventilation and source control standards for electric space
16 heated homes. In establishing the final requirements, the council
17 shall take into consideration differences in heating fuels and heating
18 system types.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210
20 RCW to read as follows:

21 (1) The superintendent of public instruction and the secretary of
22 the department of health shall develop a uniform policy for all school
23 districts providing for the in-service training for school staff on
24 symptoms, treatment, and monitoring of students with asthma and on the
25 additional observations that may be needed in different situations that
26 may arise during the school day and during school-sponsored events.
27 The policy shall include the standards and skills that must be in place
28 for in-service training of school staff.

29 (2) All school districts shall adopt policies regarding asthma
30 rescue procedures and asthma prevention policies for each school within
31 the district.

32 (3) All school districts must require that each public elementary
33 school and secondary school grant to any student in the school
34 authorization for the self-administration of medication to treat that
35 student's asthma or anaphylaxis, if:

36 (a) A health care practitioner prescribed the medication for use by

1 the student during school hours and instructed the student in the
2 correct and responsible use of the medication;

3 (b) The student has demonstrated to the health care practitioner,
4 or the practitioner's designee, and the school nurse, if available, the
5 skill level necessary to use the medication and any device that is
6 necessary to administer the medication as prescribed;

7 (c) The health care practitioner formulates a written treatment
8 plan for managing asthma or anaphylaxis episodes of the student and for
9 medication use by the student during school hours; and

10 (d) The student's parent or guardian has completed and submitted to
11 the school any written documentation required by the school, including
12 the treatment plan formulated under (c) of this subsection and other
13 documents related to liability.

14 (4) An authorization granted under subsection (3) of this section
15 must allow the student involved to possess and use his or her
16 medication:

17 (a) While in school;

18 (b) While at a school-sponsored activity, such as a sporting event;
19 and

20 (c) In transit to or from school or school-sponsored activities.

21 (5) An authorization granted under subsection (3) of this section:

22 (a) Must be effective only for the same school and school year for
23 which it is granted; and

24 (b) Must be renewed by the parent or guardian each subsequent
25 school year in accordance with this subsection.

26 (6) School districts must require that backup medication, if
27 provided by a student's parent or guardian, be kept at a student's
28 school in a location to which the student has immediate access in the
29 event of an asthma or anaphylaxis emergency.

30 (7) School districts must require that information described in
31 subsection (3)(c) and (d) of this section be kept on file at the
32 student's school in a location easily accessible in the event of an
33 asthma or anaphylaxis emergency.

34 (8) Nothing in this section creates a cause of action or in any
35 other way increases or diminishes the liability of any person under any
36 other law.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW
2 to read as follows:

3 (1) The authority shall coordinate among state agencies and health
4 plans delivering state purchased health services for including asthma
5 management, including development of individual asthma management
6 plans, among the disease management programs that are encouraged by the
7 authority.

8 (2) The administrator shall establish a common asthma registry
9 process for all providers of health care services purchased by the
10 state.

11 **Sec. 5.** RCW 41.05.013 and 2003 c 276 s 1 are each amended to read
12 as follows:

13 (1) The authority shall coordinate state agency efforts to develop
14 and implement uniform policies across state purchased health care
15 programs that will ensure prudent, cost-effective health services
16 purchasing, maximize efficiencies in administration of state purchased
17 health care programs, improve the quality of care provided through
18 state purchased health care programs, and reduce administrative burdens
19 on health care providers participating in state purchased health care
20 programs. The policies adopted should be based, to the extent
21 possible, upon the best available scientific and medical evidence and
22 shall endeavor to address:

23 (a) Methods of formal assessment, such as health technology
24 assessment. Consideration of the best available scientific evidence
25 does not preclude consideration of experimental or investigational
26 treatment or services under a clinical investigation approved by an
27 institutional review board;

28 (b) Monitoring of health outcomes, adverse events, quality, and
29 cost-effectiveness of health services;

30 (c) Development of a common definition of medical necessity; and

31 (d) Exploration of common strategies for disease management and
32 demand management programs, including asthma, diabetes, heart disease,
33 and similar common chronic diseases. Strategies to be explored include
34 individual asthma management plans.

35 (2) The administrator may invite health care provider
36 organizations, carriers, other health care purchasers, and consumers to
37 participate in efforts undertaken under this section.

1 (3) For the purposes of this section "best available scientific and
2 medical evidence" means the best available external clinical evidence
3 derived from systematic research.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05 RCW
5 to read as follows:

6 The legislature finds that asthma imposes a significant health risk
7 and tremendous financial burden on the citizens and government of the
8 state of Washington, and that access to the medically accepted
9 standards of care for asthma, its treatment and supplies, and self-
10 management training and education is crucial to prevent or delay the
11 short and long-term complications of asthma and its attendant costs.

12 (1) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Person with asthma" means a person diagnosed by a health care
15 provider as having asthma; and

16 (b) "Health care provider" means a health care provider as defined
17 in RCW 48.43.005.

18 (2) All state-purchased health care purchased or renewed after
19 January 1, 2006, shall provide benefits for at least the following
20 services and supplies for persons with asthma:

21 (a) For state-purchased health care that includes coverage for
22 pharmacy services, appropriate and medically necessary equipment and
23 supplies, as prescribed by a health care provider, that includes but is
24 not limited to asthma controller medicines, asthma rescue medicines,
25 peak flow meters, spacers, covering for mattresses and pillows for
26 sensitive populations, and smoking cessation services and medications
27 for persons with asthma or others living in the same household, as
28 prescribed by a health care provider;

29 (b) For all state-purchased health care, outpatient self-management
30 training and education, including development of an asthma plan and
31 services of a certified asthma educator, as ordered by the health care
32 provider. Asthma outpatient self-management training and education may
33 be provided only by certified asthma educators. Nothing in this
34 section prevents the health care service contractor from restricting
35 patients to seeing only health care providers who have signed
36 participating provider agreements with the health care service

1 contractor or an insuring entity under contract with the health care
2 service contractor.

3 (3) Coverage required under this section may be subject to
4 customary cost-sharing provisions established for all other similar
5 services or supplies within a policy.

6 (4) Health care coverage may not be reduced or eliminated due to
7 this section.

8 (5) Services required under this section shall be covered when
9 deemed medically necessary by the medical director, or his or her
10 designee or licensed health care provider with the appropriate training
11 and education in the pathophysiology, treatment, and education required
12 for asthma management, and is subject to any referral and formulary
13 requirements.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.44 RCW
15 to read as follows:

16 The legislature finds that asthma imposes a significant health risk
17 and tremendous financial burden on the citizens and government of the
18 state of Washington, and that access to the medically accepted
19 standards of care for asthma, its treatment and supplies, and self-
20 management training and education is crucial to prevent or delay the
21 short and long-term complications of asthma and its attendant costs.

22 (1) The definitions in this subsection apply throughout this
23 section unless the context clearly requires otherwise.

24 (a) "Person with asthma" means a person diagnosed by a health care
25 provider as having asthma; and

26 (b) "Health care provider" means a health care provider as defined
27 in RCW 48.43.005.

28 (2) All health benefit plans offered by health care service
29 contractors, issued or renewed after January 1, 2006, shall provide
30 benefits for at least the following services and supplies for persons
31 with asthma:

32 (a) For health benefit plans that include coverage for pharmacy
33 services, appropriate and medically necessary equipment and supplies,
34 as prescribed by a health care provider, that includes but is not
35 limited to asthma controller medicines, asthma rescue medicines, peak
36 flow meters, spacers, covering for mattresses and pillows for sensitive

1 populations, and smoking cessation services and medications for persons
2 with asthma or others living in the same household, as prescribed by a
3 health care provider;

4 (b) For all health benefit plans, outpatient self-management
5 training and education, including development of an asthma plan and
6 services of a certified asthma educator, as ordered by the health care
7 provider. Asthma outpatient self-management training and education may
8 be provided only by certified asthma educators. Nothing in this
9 section prevents the health care service contractor from restricting
10 patients to seeing only health care providers who have signed
11 participating provider agreements with the health care service
12 contractor or an insuring entity under contract with the health care
13 service contractor.

14 (3) Coverage required under this section may be subject to
15 customary cost-sharing provisions established for all other similar
16 services or supplies within a policy.

17 (4) Health care coverage may not be reduced or eliminated due to
18 this section.

19 (5) Services required under this section shall be covered when
20 deemed medically necessary by the medical director, or his or her
21 designee or licensed health care provider with the appropriate training
22 and education in the pathophysiology, treatment, and education required
23 for asthma management, and is subject to any referral and formulary
24 requirements.

25 (6) The health care service contractor need not include the
26 coverage required in this section in a group contract offered to an
27 employer or other group that offers to its eligible enrollees a self-
28 insured health plan not subject to mandated benefits status under this
29 title that does not offer coverage similar to that mandated under this
30 section.

31 (7) This section does not apply to the health benefit plans that
32 provide benefits identical to the schedule of services covered by the
33 basic health plan, as required by RCW 48.44.022 and 48.44.023.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.46 RCW
35 to read as follows:

36 The legislature finds that asthma imposes a significant health risk
37 and tremendous financial burden on the citizens and government of the

1 state of Washington, and that access to the medically accepted
2 standards of care for asthma, its treatment and supplies, and self-
3 management training and education is crucial to prevent or delay the
4 short and long-term complications of asthma and its attendant costs.

5 (1) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Person with asthma" means a person diagnosed by a health care
8 provider as having asthma; and

9 (b) "Health care provider" means a health care provider as defined
10 in RCW 48.43.005.

11 (2) All health benefit plans offered by health maintenance
12 organizations, issued or renewed after January 1, 2006, shall provide
13 benefits for at least the following services and supplies for persons
14 with asthma:

15 (a) For health benefit plans that include coverage for pharmacy
16 services, appropriate and medically necessary equipment and supplies,
17 as prescribed by a health care provider, that includes but is not
18 limited to asthma controller medicines, asthma rescue medicines, peak
19 flow meters, spacers, covering for mattresses and pillows for sensitive
20 populations, and smoking cessation services and medications for persons
21 with asthma or others living in the same household, as prescribed by a
22 health care provider;

23 (b) For all health benefit plans, outpatient self-management
24 training and education, including development of an asthma plan and
25 services of a certified asthma educator, as ordered by the health care
26 provider. Asthma outpatient self-management training and education may
27 be provided only by certified asthma educators. Nothing in this
28 section prevents the health care service contractor from restricting
29 patients to seeing only health care providers who have signed
30 participating provider agreements with the health care service
31 contractor or an insuring entity under contract with the health care
32 service contractor.

33 (3) Coverage required under this section may be subject to
34 customary cost-sharing provisions established for all other similar
35 services or supplies within a policy.

36 (4) Health care coverage may not be reduced or eliminated due to
37 this section.

1 (5) Services required under this section shall be covered when
2 deemed medically necessary by the medical director, or his or her
3 designee or licensed health care provider with the appropriate training
4 and education in the pathophysiology, treatment, and education required
5 for asthma management, and is subject to any referral and formulary
6 requirements.

7 (6) The health maintenance organization need not include the
8 coverage required in this section in a group contract offered to an
9 employer or other group that offers to its eligible enrollees a self-
10 insured health plan not subject to mandated benefits status under this
11 title that does not offer coverage similar to that mandated under this
12 section.

13 (7) This section does not apply to the health benefit plans that
14 provide benefits identical to the schedule of services covered by the
15 basic health plan, as required by RCW 48.44.022 and 48.44.023.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.70 RCW
17 to read as follows:

18 The department of health shall collect data as authorized by RCW
19 43.70.050 regarding the prevalence of asthma, identify variations in
20 practices of treatment of asthma, identify populations with
21 disproportionate prevalence, and describe successful strategies for
22 diagnosis, prevention, and treatment of asthma.

23 **Sec. 10.** RCW 74.09.520 and 2004 c 141 s 2 are each amended to read
24 as follows:

25 (1) The term "medical assistance" may include the following care
26 and services: (a) Inpatient hospital services; (b) outpatient hospital
27 services; (c) other laboratory and x-ray services; (d) nursing facility
28 services; (e) physicians' services, which shall include prescribed
29 medication and instruction on birth control devices; (f) medical care,
30 or any other type of remedial care as may be established by the
31 secretary; (g) home health care services; (h) private duty nursing
32 services; (i) dental services; (j) physical and occupational therapy
33 and related services; (k) prescribed drugs, dentures, and prosthetic
34 devices; and eyeglasses prescribed by a physician skilled in diseases
35 of the eye or by an optometrist, whichever the individual may select;
36 (l) personal care services, as provided in this section; (m) hospice

1 services; (n) other diagnostic, screening, preventive, and
2 rehabilitative services; (~~and~~) (o) asthma-related community health
3 services; and (p) like services when furnished to a child by a school
4 district in a manner consistent with the requirements of this chapter.
5 For the purposes of this section, the department may not cut off any
6 prescription medications, oxygen supplies, respiratory services, or
7 other life-sustaining medical services or supplies.

8 "Medical assistance," notwithstanding any other provision of law,
9 shall not include routine foot care, or dental services delivered by
10 any health care provider, that are not mandated by Title XIX of the
11 social security act unless there is a specific appropriation for these
12 services.

13 (2) The department shall amend the state plan for medical
14 assistance under Title XIX of the federal social security act to
15 include personal care services, as defined in 42 C.F.R. 440.170(f), in
16 the categorically needy program.

17 (3) The department shall adopt, amend, or rescind such
18 administrative rules as are necessary to ensure that Title XIX personal
19 care services are provided to eligible persons in conformance with
20 federal regulations.

21 (a) These administrative rules shall include financial eligibility
22 indexed according to the requirements of the social security act
23 providing for medicaid eligibility.

24 (b) The rules shall require clients be assessed as having a medical
25 condition requiring assistance with personal care tasks. Plans of care
26 for clients requiring health-related consultation for assessment and
27 service planning may be reviewed by a nurse.

28 (c) The department shall determine by rule which clients have a
29 health-related assessment or service planning need requiring registered
30 nurse consultation or review. This definition may include clients that
31 meet indicators or protocols for review, consultation, or visit.

32 (4) The department shall design and implement a means to assess the
33 level of functional disability of persons eligible for personal care
34 services under this section. The personal care services benefit shall
35 be provided to the extent funding is available according to the
36 assessed level of functional disability. Any reductions in services
37 made necessary for funding reasons should be accomplished in a manner

1 that assures that priority for maintaining services is given to persons
2 with the greatest need as determined by the assessment of functional
3 disability.

4 (5) Effective July 1, 1989, the department shall offer hospice
5 services in accordance with available funds.

6 (6) For Title XIX personal care services administered by aging and
7 disability services administration of the department, the department
8 shall contract with area agencies on aging:

9 (a) To provide case management services to individuals receiving
10 Title XIX personal care services in their own home; and

11 (b) To reassess and reauthorize Title XIX personal care services or
12 other home and community services as defined in RCW 74.39A.009 in home
13 or in other settings for individuals consistent with the intent of this
14 section:

15 (i) Who have been initially authorized by the department to receive
16 Title XIX personal care services or other home and community services
17 as defined in RCW 74.39A.009; and

18 (ii) Who, at the time of reassessment and reauthorization, are
19 receiving such services in their own home.

20 (7) In the event that an area agency on aging is unwilling to enter
21 into or satisfactorily fulfill a contract or an individual consumer's
22 need for case management services will be met through an alternative
23 delivery system, the department is authorized to:

24 (a) Obtain the services through competitive bid; and

25 (b) Provide the services directly until a qualified contractor can
26 be found.

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