

**SHB 1222 - H AMD 19**

By Representative Riccelli

**ADOPTED AS AMENDED 02/28/2023**

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43  
4 RCW to read as follows:

5 (1) For nongrandfathered group health plans other than small  
6 group health plans issued or renewed on or after January 1, 2024, a  
7 health carrier shall include coverage for hearing instruments,  
8 including bone conduction hearing devices. This section does not  
9 include coverage of over-the-counter hearing instruments.

10 (2) Coverage shall also include the initial assessment, fitting,  
11 adjustment, auditory training, and ear molds as necessary to maintain  
12 optimal fit. Coverage of the services in this subsection shall  
13 include services for enrollees who intend to obtain or have already  
14 obtained any hearing instrument, including an over-the-counter  
15 hearing instrument.

16 (3) A health carrier shall provide coverage for hearing  
17 instruments as provided in subsection (1) of this section at no less  
18 than \$3,000 per ear with hearing loss every 36 months.

19 (4) The services and hearing instruments covered under this  
20 section are not subject to the enrollee's deductible unless the  
21 health plan is offered as a qualifying health plan for a health  
22 savings account. For such a qualifying health plan, the carrier may  
23 apply a deductible to coverage of the services covered under this  
24 section only at the minimum level necessary to preserve the  
25 enrollee's ability to claim tax exempt contributions and withdrawals  
26 from the enrollee's health savings account under internal revenue  
27 service laws and regulations.

28 (5) Coverage for a minor under 18 years of age shall be available  
29 under this section only after the minor has received medical  
30 clearance within the preceding six months from:

31 (a) An otolaryngologist for an initial evaluation of hearing  
32 loss; or

1 (b) A licensed physician, which indicates there has not been a  
2 substantial change in clinical status since the initial evaluation by  
3 an otolaryngologist.

4 (6) For the purposes of this section:

5 (a) "Hearing instrument" has the same meaning as defined in RCW  
6 18.35.010.

7 (b) "Over-the-counter hearing instrument" has the same meaning as  
8 "over-the-counter hearing aid" in 21 C.F.R. Sec. 800.30 as of  
9 December 28, 2022.

10 **Sec. 2.** RCW 48.43.715 and 2022 c 236 s 2 are each amended to  
11 read as follows:

12 (1) The commissioner, in consultation with the board and the  
13 health care authority, shall, by rule, select the largest small group  
14 plan in the state by enrollment as the benchmark plan for the  
15 individual and small group market for purposes of establishing the  
16 essential health benefits in Washington state.

17 (2) If the essential health benefits benchmark plan for the  
18 individual and small group market does not include all of the ten  
19 essential health benefits categories, the commissioner, in  
20 consultation with the board and the health care authority, shall, by  
21 rule, supplement the benchmark plan benefits as needed.

22 (3) All individual and small group health plans must cover the  
23 ten essential health benefits categories, other than a health plan  
24 offered through the federal basic health program, a grandfathered  
25 health plan, or medicaid. Such a health plan may not be offered in  
26 the state unless the commissioner finds that it is substantially  
27 equal to the benchmark plan. When making this determination, the  
28 commissioner:

29 (a) Must ensure that the plan covers the ten essential health  
30 benefits categories;

31 (b) May consider whether the health plan has a benefit design  
32 that would create a risk of biased selection based on health status  
33 and whether the health plan contains meaningful scope and level of  
34 benefits in each of the ten essential health benefits categories;

35 (c) Notwithstanding (a) and (b) of this subsection, for benefit  
36 years beginning January 1, 2015, must establish by rule the review  
37 and approval requirements and procedures for pediatric oral services  
38 when offered in stand-alone dental plans in the nongrandfathered  
39 individual and small group markets outside of the exchange; and

1 (d) Must allow health carriers to also offer pediatric oral  
2 services within the health benefit plan in the nongrandfathered  
3 individual and small group markets outside of the exchange.

4 (4) Beginning December 15, 2012, and every year thereafter, the  
5 commissioner shall submit to the legislature a list of state-mandated  
6 health benefits, the enforcement of which will result in federally  
7 imposed costs to the state related to the plans sold through the  
8 exchange because the benefits are not included in the essential  
9 health benefits designated under federal law. The list must include  
10 the anticipated costs to the state of each state-mandated health  
11 benefit on the list and any statutory changes needed if funds are not  
12 appropriated to defray the state costs for the listed mandate. The  
13 commissioner may enforce a mandate on the list for the entire market  
14 only if funds are appropriated in an omnibus appropriations act  
15 specifically to pay the state portion of the identified costs.

16 (5) Upon authorization by the legislature to modify the state's  
17 essential health benefits benchmark plan under 45 C.F.R. Sec.  
18 156.111, the commissioner shall include coverage for donor human milk  
19 under RCW 48.43.815 and hearing instruments and services required  
20 under section 1 of this act in the updated plan.

21 **Sec. 3.** RCW 41.05.830 and 2018 c 159 s 1 are each amended to  
22 read as follows:

23 (1) Subject to appropriation, a health plan offered to employees  
24 and their covered dependents under this chapter issued or renewed on  
25 or after January 1, 2019, must include coverage for hearing  
26 instruments. Coverage must include a new hearing instrument every  
27 five years and services and supplies such as the initial assessment,  
28 fitting, adjustment, and auditory training.

29 (2) The hearing instrument must be recommended by a licensed  
30 audiologist, hearing aid specialist, or a licensed physician or  
31 osteopathic physician who specializes in otolaryngology and dispensed  
32 by a licensed audiologist, hearing aid specialist, or a licensed  
33 physician or osteopathic physician who specializes in otolaryngology.

34 (3) For the purposes of this section, "hearing instrument" and  
35 "hearing aid specialist" have the same meaning as defined in RCW  
36 18.35.010.

37 (4) This section expires December 31, 2023.

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

3        A health plan offered to employees and their covered dependents  
4 under this chapter issued or renewed on or after January 1, 2024, is  
5 subject to section 1 of this act."

6        Correct the title.

EFFECT: Increases the minimum benefit for hearing instruments to no less than \$3,000 per ear with hearing loss.

      Modifies the hearing instrument benefit for public employees and their dependents by expiring the current requirement to cover a hearing instrument every five years on December 31, 2023, and applying the coverage requirements found in the bill for health carriers to health plans offered to public employees and their dependents beginning January 1, 2024.

      Removes the provision that provides an enrollee may choose a higher priced hearing instrument and pay the difference between the price of the hearing instrument and the benefit amount without financial or contractual penalty to the enrollee or to the in-network provider.

      Makes technical language changes.

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