

**SHB 1362** - H AMD **386**

By Representative Stearns

**ADOPTED 03/07/2023**

1 On page 6, after line 31, insert the following:

2 "Sec. 5. RCW 48.43.0128 and 2021 c 280 s 3 are each amended to  
3 read as follows:

4 (1) A health carrier offering a nongrandfathered health plan or  
5 a plan deemed by the commissioner to have a short-term limited  
6 purpose or duration, or to be a student-only plan that is guaranteed  
7 renewable while the covered person is enrolled as a regular, full-  
8 time undergraduate student at an accredited higher education  
9 institution may not:

10 (a) In its benefit design or implementation of its benefit  
11 design, discriminate against individuals because of their age,  
12 expected length of life, present or predicted disability, degree of  
13 medical dependency, quality of life, or other health conditions; and

14 (b) With respect to the health plan or plan deemed by the  
15 commissioner to have a short-term limited purpose or duration, or to  
16 be a student-only plan that is guaranteed renewable while the  
17 covered person is enrolled as a regular, full-time undergraduate  
18 student at an accredited higher education institution, discriminate  
19 on the basis of race, color, national origin, disability, age, sex,  
20 gender identity, or sexual orientation.

21 (2) Nothing in this section may be construed to prevent a  
22 carrier from appropriately utilizing reasonable medical management  
23 techniques.

24 (3) For health plans issued or renewed on or after January 1,  
25 2022:

26 (a) A health carrier may not deny or limit coverage for gender  
27 affirming treatment when that treatment is prescribed to an

1 individual because of, related to, or consistent with a person's  
2 gender expression or identity, as defined in RCW 49.60.040, is  
3 medically necessary, and is prescribed in accordance with accepted  
4 standards of care.

5 (b) A health carrier may not apply categorical cosmetic or  
6 blanket exclusions to gender affirming treatment. When prescribed as  
7 medically necessary gender affirming treatment, a health carrier may  
8 not exclude as cosmetic services facial feminization surgeries and  
9 other facial gender affirming treatment, such as tracheal shaves,  
10 hair electrolysis, and other care such as mastectomies, breast  
11 reductions, breast implants, or any combination of gender affirming  
12 procedures, including revisions to prior treatment.

13 (c) A health carrier may not issue an adverse benefit  
14 determination denying or limiting access to gender affirming  
15 services, unless a health care provider with experience prescribing  
16 or delivering gender affirming treatment has reviewed and confirmed  
17 the appropriateness of the adverse benefit determination.

18 (d) Health carriers must comply with all network access rules  
19 and requirements established by the commissioner.

20 (4) For the purposes of this section, "gender affirming  
21 treatment" means a service or product that a health care provider,  
22 as defined in RCW 70.02.010, prescribes to an individual to treat  
23 any condition related to the individual's gender identity and is  
24 prescribed in accordance with generally accepted standards of care.  
25 Gender affirming treatment must be covered in a manner compliant  
26 with the federal mental health parity and addiction equity act of  
27 2008 and the federal affordable care act. Gender affirming treatment  
28 can be prescribed to two spirit, transgender, nonbinary, intersex,  
29 and other gender diverse individuals.

30 (5) Nothing in this section may be construed to mandate coverage  
31 of a service that is not medically necessary.

32 (6) By December 1, 2022, the commissioner, in consultation with  
33 the health care authority and the department of health, must issue a  
34 report on geographic access to gender affirming treatment across the

1 state. The report must include the number of gender affirming  
2 providers offering care in each county, the carriers and medicaid  
3 managed care organizations those providers have active contracts  
4 with, and the types of services provided by each provider in each  
5 region. The commissioner must update the report (~~biannually~~)  
6 biennially and post the report on its website.

7 (7) The commissioner shall adopt any rules necessary to  
8 implement subsections (3), (4), and (5) of this section.

9 (8) Unless preempted by federal law, the commissioner shall  
10 adopt any rules necessary to implement subsections (1) and (2) of  
11 this section, consistent with federal rules and guidance in effect  
12 on January 1, 2017, implementing the patient protection and  
13 affordable care act."

14

15 Renumber the remaining sections consecutively and correct any  
16 internal references accordingly.

17

18 Correct the title.

19

EFFECT: Provides that the Office of the Insurance Commissioner's  
report on geographic access to gender-affirming treatment across the  
state must be updated biennially, rather than biannually.

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