

SSB 5338 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 03/20/2023

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

3 "NEW SECTION. **Sec. 1.** (1) The office of the insurance
4 commissioner, in consultation with relevant interested persons and
5 entities, shall review Washington's benchmark plan establishing the
6 state's essential health benefits to determine whether to request
7 approval from the centers for medicare and medicaid services under 45
8 C.F.R. Sec. 156.111 to modify the state's essential health benefits
9 benchmark plan.

10 (2) As part of its review, the office shall determine the
11 potential impacts on individual and small group health plan design,
12 actuarial values, and premium rates if coverage for each of the
13 following was included as an essential health benefit:

14 (a) Donor human milk as provided in RCW 48.43.815 and directed by
15 RCW 48.43.715;

16 (b) Hearing instruments and associated services as described in
17 section 1, chapter . . . (House Bill No. 1222), Laws of 2023 and
18 directed by RCW 48.43.715;

19 (c) Fertility services;

20 (d) Biomarker testing;

21 (e) Contralateral prophylactic mastectomies;

22 (f) Treatment for pediatric acute-onset neuropsychiatric syndrome
23 and pediatric autoimmune neuropsychiatric disorders associated with
24 streptococcal infections; and

25 (g) Magnetic resonance imaging for breast cancer screening.

26 (3) By December 31, 2023, the office shall report the results of
27 the review to the relevant committees of the legislature, including
28 any findings related to modifying the state's essential health
29 benefits.

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

3 (1) (~~The~~) Until the effective date of an updated essential
4 health benefits benchmark plan submitted under section 1 of this act,
5 the commissioner, in consultation with the board and the health care
6 authority, shall, by rule, select the largest small group plan in the
7 state by enrollment as the benchmark plan for the individual and
8 small group market for purposes of establishing the essential health
9 benefits in Washington state.

10 (2) If the essential health benefits benchmark plan for the
11 individual and small group market does not include all of the (~~ten~~)
12 10 essential health benefits categories, the commissioner, in
13 consultation with the board and the health care authority, shall, by
14 rule, supplement the benchmark plan benefits as needed.

15 (3) All individual and small group health plans must cover the
16 (~~ten~~) 10 essential health benefits categories, other than a health
17 plan offered through the federal basic health program, a
18 grandfathered health plan, or medicaid. Such a health plan may not be
19 offered in the state unless the commissioner finds that it is
20 substantially equal to the benchmark plan. When making this
21 determination, the commissioner:

22 (a) Must ensure that the plan covers the (~~ten~~) 10 essential
23 health benefits categories;

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

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

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

36 (4) Beginning December 15, 2012, and every year thereafter, the
37 commissioner shall submit to the legislature a list of state-mandated
38 health benefits, the enforcement of which will result in federally
39 imposed costs to the state related to the plans sold through the
40 exchange because the benefits are not included in the essential

1 health benefits designated under federal law. The list must include
2 the anticipated costs to the state of each state-mandated health
3 benefit on the list and any statutory changes needed if funds are not
4 appropriated to defray the state costs for the listed mandate. The
5 commissioner may enforce a mandate on the list for the entire market
6 only if funds are appropriated in an omnibus appropriations act
7 specifically to pay the state portion of the identified costs.

8 ~~(5) ((Upon authorization by the legislature to modify the state's~~
9 ~~essential health benefits benchmark plan under 45 C.F.R. Sec.~~
10 ~~156.111, the))~~ The commissioner shall include coverage for donor
11 human milk as provided in RCW 48.43.815 and hearing instruments and
12 associated services as described in section 1, chapter . . . (House
13 Bill No. 1222), Laws of 2023, in ((the updated plan)) any update of
14 the state's essential health benefits benchmark plan submitted to the
15 centers for medicare and medicaid services under section 1 of this
16 act.

17 NEW SECTION. Sec. 3. This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of
19 the state government and its existing public institutions, and takes
20 effect immediately."

21 Correct the title.

EFFECT: (1) Adds donor human milk and treatment for Pediatric
Acute-onset Neuropsychiatric Syndrome and Pediatric Autoimmune
Neuropsychiatric Disorders Associated with Streptococcal Infections
to the benefits that the Office of the Insurance Commissioner (OIC)
must review.

(2) Adds hearing instruments and associated services to the
benefits that the Insurance Commissioner must include in any update
of the state's essential health benefits benchmark plan.

(3) Moves back the date the OIC must report the results of the
review from December 1, 2023, to December 31, 2023.

(4) Makes technical corrections, such as referencing statutes and
bills before the Legislature.

(5) Adds an emergency clause.

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