

SENATE BILL REPORT

ESHB 1222

As Passed Senate - Amended, March 31, 2023

Title: An act relating to requiring coverage for hearing instruments.

Brief Description: Requiring coverage for hearing instruments.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Orwall, Simmons, Reeves, Reed, Leavitt, Kloba, Farivar, Doglio, Morgan, Slatter, Ramel, Goodman, Callan, Fosse, Pollet, Lekanoff and Macri).

Brief History: Passed House: 2/28/23, 89-8.

Committee Activity: Health & Long Term Care: 3/14/23, 3/16/23 [DPA].

Floor Activity: Passed Senate - Amended: 3/31/23, 48-0.

Brief Summary of Bill (As Amended by Senate)

- Requires non-grandfathered large group health plans to provide coverage for hearing instruments.
- Modifies requirements for hearing instrument coverage for plans offered to public employees.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

Staff: Greg Attanasio (786-7410)

Background: Hearing Instruments. A hearing instrument is defined as any wearable

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prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices. The fitting and dispensing of hearing instruments must be performed by a licensed hearing aid specialist, a licensed audiologist, or an audiologist holding an interim permit from the Department of Health.

Hearing Instrument Coverage in Washington. Beginning January 1, 2019, health plans offered to public employees and Medicaid enrollees must include coverage for hearing instruments. For public employees, coverage must include a new hearing instrument every five years, and services and supplies such as the initial assessment, fitting, adjustment, and auditory training. For Medicaid enrollees, coverage must include, when medically necessary, a new hearing instrument every five years, a new hearing instrument when alterations to the existing hearing instrument cannot meet the needs of the patient, and services and supplies such as the initial assessment, fitting, adjustment, and auditory training. The hearing instrument must be recommended and dispensed by a licensed audiologist, hearing aid specialist, or physician or osteopathic physician specializing in otolaryngology.

Over-the-Counter Hearing Instruments. On October 17, 2022, federal Food and Drug Administration rules went into effect authorizing the use of a new category of hearing aid, over-the-counter (OTC) hearing instruments, which consumers may purchase directly from stores or online retailers without obtaining a medical exam or requiring a fitting by an audiologist or hearing aid specialist. The OTC hearing instruments are available to adults with perceived mild to moderate hearing impairment.

Essential Health Benefits Benchmark Plan. Passed in 2010, the federal Patient Protection and Affordable Care Act (ACA) enacted a variety of provisions related to private health insurance coverage, including establishing essential health benefits. The ACA requires most individual and small group market health plans to cover ten categories of essential health benefits. To determine the specific services covered within each category, federal rules allow states to choose a benchmark plan and to supplement that plan to ensure it covers all ten categories. State law designates the largest small group plan in the state as the benchmark plan. In 2019, the Department of Health and Human Services issued a notice of benefits and payment parameters that gives states an opportunity to update their essential health benefit benchmark plans for 2020 and beyond.

Summary of Amended Bill: A health carrier offering a non-grandfathered large group health plan and health plans offered to public employees and their covered dependents issued or renewed on or after January 1, 2024, must include coverage for hearing instruments, except for OTC hearing instruments, including bone conduction hearing devices. The coverage must include the hearing instrument, the initial assessment, fitting, adjustment, auditory training, and ear molds, as necessary, to maintain optimal fit.

A health carrier and health plan offered to public employees must provide coverage for hearing instruments at no less than \$3,000 per ear with hearing loss every 36 months. This benefit is not subject to the enrollee's deductible, unless the plan is offered as a qualifying health plan for a health savings account in which case the health carrier or health plan may only establish the health plan's deductible at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the health savings account under federal law and regulations.

Coverage for minors under 18 years of age is only available after the minor has received medical clearance within the past six months from an otolaryngologist for an initial evaluation of hearing loss or from a licensed physician which indicates there has not been a substantial change in clinical status since the initial evaluation by an otolaryngologist.

Current law requiring health plans offered to public employees and their covered dependents to include coverage for a new hearing instrument every five years expires December 31, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard* PRO: Hearing instruments are expensive and out of reach for many families. The lack of access isolates individuals from daily activities and can lead to mental and physical health problems. It would cost about \$0.36 per member per month to provide this coverage.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Jill Bujnevicie, Will also have 8yo son Hugo Esterhay briefly speak with me; Douglas Sladen; Ruby Kotovic; Cynthia Stewart, Hearing Loss Association - WA; Kai Wendorf, 16 year old using hearing aids since 6 months old; Julia LaBelle; Ariele Belo; Zephyr Kolsky; Jane Beyer, Office of the Insurance Commissioner; Hugo Esterhay.

Persons Signed In To Testify But Not Testifying: No one.