
HOUSE BILL 1222

State of Washington

68th Legislature

2023 Regular Session

By Representative Orwall

1 AN ACT Relating to requiring coverage for hearing instruments;
2 amending RCW 48.43.715; and adding a new section to chapter 48.43
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
6 RCW to read as follows:

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

12 (2) Coverage shall include the hearing instrument, the initial
13 assessment, fitting, adjustment, auditory training, and ear molds as
14 necessary to maintain optimal fit. Coverage of these services shall
15 include services for enrollees intending to obtain or who have
16 already obtained any hearing instrument, including over-the-counter
17 hearing instruments.

18 (3) The maximum benefit amount required by this section is \$2,500
19 per ear with hearing loss every 36 months.

20 (4) The benefit covered under this section is not subject to the
21 covered individual's deductible unless the health plan is offered as

1 a qualifying health plan for a health savings account. For such a
2 qualifying health plan, the carrier shall establish the plan's cost
3 sharing for the coverage required by this section at the minimum
4 level necessary to preserve the enrollee's ability to claim tax
5 exempt contributions and withdrawals from the enrollee's health
6 savings account under internal revenue service laws and regulations.

7 (5) A covered individual may choose a higher priced hearing
8 instrument and pay the difference between the price of the hearing
9 instrument and the benefit required under this section, without
10 financial or contractual penalty to the covered individual or to the
11 provider of the hearing instrument.

12 (6) Coverage for a minor under 18 years of age shall be available
13 under this section only after the minor has received medical
14 clearance within the preceding six months from:

15 (a) An otolaryngologist for an initial evaluation of hearing
16 loss; or

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

20 (7) For the purposes of this section:

21 (a) "Hearing instrument" has the same meaning as defined in RCW
22 18.35.010.

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

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

28 (1) The commissioner, in consultation with the board and the
29 health care authority, shall, by rule, select the largest small group
30 plan in the state by enrollment as the benchmark plan for the
31 individual and small group market for purposes of establishing the
32 essential health benefits in Washington state.

33 (2) If the essential health benefits benchmark plan for the
34 individual and small group market does not include all of the ten
35 essential health benefits categories, the commissioner, in
36 consultation with the board and the health care authority, shall, by
37 rule, supplement the benchmark plan benefits as needed.

38 (3) All individual and small group health plans must cover the
39 ten essential health benefits categories, other than a health plan

1 offered through the federal basic health program, a grandfathered
2 health plan, or medicaid. Such a health plan may not be offered in
3 the state unless the commissioner finds that it is substantially
4 equal to the benchmark plan. When making this determination, the
5 commissioner:

6 (a) Must ensure that the plan covers the ten essential health
7 benefits categories;

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

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

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

20 (4) Beginning December 15, 2012, and every year thereafter, the
21 commissioner shall submit to the legislature a list of state-mandated
22 health benefits, the enforcement of which will result in federally
23 imposed costs to the state related to the plans sold through the
24 exchange because the benefits are not included in the essential
25 health benefits designated under federal law. The list must include
26 the anticipated costs to the state of each state-mandated health
27 benefit on the list and any statutory changes needed if funds are not
28 appropriated to defray the state costs for the listed mandate. The
29 commissioner may enforce a mandate on the list for the entire market
30 only if funds are appropriated in an omnibus appropriations act
31 specifically to pay the state portion of the identified costs.

32 (5) Upon authorization by the legislature to modify the state's
33 essential health benefits benchmark plan under 45 C.F.R. Sec.
34 156.111, the commissioner shall include coverage for donor human milk
35 and hearing instruments in the updated plan.

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