



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2009 Assembly Bill 16

**Assembly Substitute
Amendment 1, and Assembly
Amendments 1 and 2 to
Assembly Substitute
Amendment 1**

Memo published: March 30, 2009

Contact: Joyce L. Kiel, Senior Staff Attorney (266-3137)
Anne Sappenfield, Senior Staff Attorney (267-9485)

This memorandum compares the provisions of: 2009 Assembly Bill 16; Assembly Substitute Amendment 1 to Assembly Bill 16, and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1 to Assembly Bill 16, relating to requiring health insurance coverage of hearing aids and cochlear implants. The provisions are as follows:

REQUIRED COVERAGE

2009 Assembly Bill 16

Assembly Bill 16 defines “hearing aid” and “cochlear implant.” Assembly Bill 16 then requires coverage of them as follows:

1. Subject to item 3., below, coverage is required for the cost of hearing aids and cochlear implants that are prescribed by a physician or licensed audiologist, in accordance with accepted professional medical or audiological standards, for a child covered under the policy or plan who is under 18 years of age and who is certified as deaf or hearing impaired by a physician or licensed audiologist.
2. Subject to item 3., below, coverage is required for treatment (defined as services, diagnoses, procedures, surgery, and therapy provided by a health care professional) related to the hearing aids and cochlear implants, including procedures for the implantation of cochlear devices, for the children described in item 1., above.
3. Coverage of the cost of hearing aids and related treatment is not required to exceed the cost of **one hearing aid and related treatment** per ear per child more often than once every three years.

Assembly Substitute Amendment 1 to Assembly Bill 16

Assembly Substitute Amendment 1 to Assembly Bill 16 additionally requires coverage for ***treatment related*** to providing a hearing aid even if the hearing aid is not required to be covered because it is provided more often than once every three years. Assembly Substitute Amendment 1 would require coverage as follows:

1. Subject to item 3., below, coverage is required for the cost of hearing aids and cochlear implants that are prescribed by a physician or licensed audiologist, in accordance with accepted professional medical or audiological standards, for a child covered under the policy or plan who is under 18 years of age and who is certified as deaf or hearing impaired by a physician or licensed audiologist.
2. Coverage is required for treatment (defined as services, diagnoses, procedures, surgery, and therapy provided by a health care professional) related to hearing aids and cochlear implants, including procedures for the implantation of cochlear devices, for the children described in item 1., above.
3. Coverage of the cost of hearing aids is not required to exceed the cost of ***one hearing aid*** per ear per child more often than once every three years.

Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the substitute amendment.

COST-SHARING PROVISIONS

2009 Assembly Bill 16

Assembly Bill 16 specifies that the required coverage may be subject to any cost-sharing provisions that apply generally under the policy or plan.

Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the bill.

LIMITATIONS AND EXCLUSIONS

2009 Assembly Bill 16

Assembly Bill 16 specifies that the required coverage ***may be subject*** to any limitations or exclusions that generally apply under the policy or plan, ***except for a preexisting condition exclusion***, as follows:

- A ***group*** policy or plan may not impose a preexisting condition exclusion.

- An *individual* health insurance policy may impose a preexisting condition exclusion to the required coverage that does not exceed one year. Even if an individual policy does so, the policy must nevertheless cover the cost of cochlear implants and related treatment for a child during the preexisting condition exclusion period if time is of the essence for the child to receive cochlear implants and related treatment as a result of the occurrence during that exclusion period of any of the following conditions: vestibular aqueduct syndrome; viral infection; ototoxicity; autoimmune inner ear disease; or any other condition with respect to which a failure to intervene would likely negatively impact the child's outcome.

Assembly Substitute Amendment 1 to Assembly Bill 16

Includes the same provisions.

Assembly Amendment 1 to Assembly Substitute Amendment 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 eliminates the provision which allows individual policies to include a preexisting condition exclusion for the required coverage under certain circumstances. Thus, if Assembly Amendment 1 were adopted, the required coverage *may be subject* to any limitations or exclusions that generally apply under the policy or plan, *except for a preexisting condition exclusion*. This means that both group policies and plans and individual policies would be prohibited from including a preexisting condition exclusion with respect to the required coverage.

Assembly Amendment 2 to Assembly Substitute Amendment 1

No change to the substitute amendment.

POLICIES OR PLANS TO WHICH COVERAGE REQUIREMENT APPLIES

2009 Assembly Bill 16

2009 Assembly Bill 16 *applies* to:

- Individual and group health insurance policies, including defined network plans.
- Sickness care plans operated by a cooperative association and voluntary nonprofit sickness care plans.
- Health care plans offered by the state to its employees and health care plans offered by the Group Insurance Board to local governments, including self-insured health plans.
- Self-insured health plans of a county, city, village, town, or school district.

2009 Assembly Bill 16 *does not apply* to:¹

- A health insurance policy that covers only certain specified diseases.
- A health care plan offered by a limited service health organization or by a preferred provider plan that is not a defined network plan (that is, a preferred provider plan that provides limited benefits, typically a dental or vision plan).
- A long-term care insurance policy.
- A Medicare replacement policy or Medicare supplement policy.

Assembly Substitute Amendment 1 to Assembly Bill 16

Includes substantively same provisions.

Assembly Amendment 1 to Assembly Substitute Amendment 1

Adds another category of policies and plans to which the substitute amendment *does not apply*, namely, a disability insurance policy, or a self-insured health plan of the state or a county, city, town, village, or school district, that provides only limited-scope dental or vision benefits.

Assembly Amendment 2 to Assembly Substitute Amendment 1

Adds another category of policies and plans to which the substitute amendment *does not apply*, namely, an individual health benefit plan that is not renewable and that has a specified termination date that, including any extensions that the policyholder may elect without the insurer's consent, is less than 12 months after the original effective date. These are commonly referred to as short-term bridge plans.

PROHIBITED SUBJECT OF COLLECTIVE BARGAINING BY STATE

2009 Assembly Bill 16

Assembly Bill 16 prohibits the state, as an employer, from bargaining with state employees about providing the required insurance coverage for hearing aids and cochlear implants and for related treatment.

Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the bill.

¹ Neither 2009 Assembly Bill 16, Assembly Substitute Amendment 1 to Assembly Bill 16, nor Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1 applies the required coverage to self-insured non-governmental health plans. Any such requirement would be preempted by the federal Employee Retirement Income Security Act.

INFORMATION ABOUT BADGERCARE PLUS

2009 Assembly Bill 16

Assembly Bill 16 provides that if an insurer denies coverage under an individual disability policy and the child would be eligible for coverage of hearing aids and cochlear implants and related treatment because the child is under 18 years of age and certified as deaf or hearing impaired by a physician or licensed audiologist and the hearing aid, cochlear implant, or related treatment has been prescribed by a physician or licensed audiologist in accordance with accepted professional medical or audiological standards, then the insurer must advise the child's family of coverage for hearing aids and cochlear implants and related treatment under the BadgerCare Plus Program.

Assembly Substitute Amendment 1 to Assembly Bill 16

Does *not* include this provision.

Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the substitute amendment.

TECHNICAL CORRECTIONS

2009 Assembly Bill 16

In addition to making the substantive changes noted above, Assembly Bill 16 makes several technical corrections to current statutes that are being amended by the bill.

Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the bill.

INITIAL APPLICABILITY AND EFFECTIVE DATE

2009 Assembly Bill 16

Assembly Bill 16 generally provides that the act first applies to health insurance policies that are issued or renewed and self-insured governmental health plans that are established, extended, modified, or renewed on the effective date of the act. However, it provides that if a health insurance policy or self-insured health plan covers employees who are affected by a collective bargaining agreement containing provisions inconsistent with the act, then the act first applies to those policies or plans that are issued or renewed on the earlier of: (a) the day the collective bargaining agreement expires; or (b) the day on which the collective bargaining agreement is extended, modified, or renewed.

The bill specifies that the act takes on the first day of the seventh month beginning after publication.

Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1

No change to the bill.

LEGISLATIVE HISTORY

Representative Cullen offered Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1 to the bill. The Assembly Committee on Insurance recommended:²

- Adoption of Assembly Amendment 1 to the substitute amendment on a vote of Ayes, 6; Noes, 4.
- Adoption of Assembly Amendment 2 to the substitute amendment on a vote of Ayes, 9; Noes, 1.
- Adoption of Assembly Substitute Amendment 1, as amended, on a vote of Ayes, 6; Noes, 4.
- Passage of Assembly Bill 16, as amended, on a vote of Ayes, 6; Noes, 4.

JLK:ksm

² On a vote of Ayes, 3; Noes, 7, the committee did not recommend adoption of Assembly Amendment 3 to the substitute amendment.