State of Wisconsin
2009 – 2010 LEGISLATURE

LRB–0932/4
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2009 SENATE BILL 27

February 3, 2009 – Introduced by Senators LASSA, HANSEN, LEHMAN, RISSER, TAYLOR, ERPENBACH, VINEHOUT, DARLING, S. FITZGERALD, COGGS and KAPANKE, cosponsored by Representatives CULLEN, BERNARD SCHABER, SCHNEIDER, SHERIDAN, BERCEAU, HILGENBERG, HRAYCHUCK, VRUWINK, MASON, BLACK, PASCH, SHERMAN, POCAN, JORGENSEN, SINICKI, STONE, KRUSICK, SMITH, SEIDEL, MONTGOMERY, PARISI, TURNER, GRIGSBY, RICHARDS, ZIGMUNT, A. WILLIAMS, SOLETSKI, HIXSON and DEXTER. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

AN ACT ***to amend*** 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g), 185.981 (4t) and 185.983 (1) (intro.); and ***to create*** 609.86 and 632.895 (16) of the statutes; **relating to:** requiring health insurance coverage of hearing aids and cochlear implants for persons under 18 years of age.

Analysis by the Legislative Reference Bureau

This bill requires health insurance policies and plans to cover the cost of hearing aids, which include any externally wearable instruments or devices designed to enhance hearing, and cochlear implants, which include any implantable instruments or devices designed to enhance hearing, that are prescribed by a physician or audiologist in accordance with accepted professional medical or audiological standards, for any child under 18 years of age who has coverage under the policy or plan and who is certified as deaf or hearing impaired by a physician or an audiologist. Treatment (defined as services, diagnoses, procedures, surgery, and therapy provided by a health care professional) for such a child that is related to hearing aids and cochlear implants is also required to be covered. Coverage for hearing aids is not required to exceed the cost of one hearing aid per ear per child more often than once every three years. The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and cooperative sickness care associations; to health care plans offered by the state to its employees, including a self–insured plan; and to self–insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited–scope benefit plans, medicare replacement or

supplement policies, long–term care policies, or policies covering only certain specified diseases. The required coverage may be subject to any limitations, cost–sharing provisions, or exclusions, other than a preexisting condition exclusion, that apply generally under the policy or plan. An exception is that an individual health insurance policy may impose a preexisting condition exclusion that does not exceed one year with respect to coverage for cochlear implants and related treatment. However, the bill requires an individual health insurance policy that imposes a preexisting condition exclusion to cover the cost of cochlear implants and related treatment during the preexisting condition exclusion period if certain specified medical conditions occur during the period that make time of the essence for a child to receive the implants and related treatment.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.51 (8) of the statutes is amended to read:

40.51 **(8)** Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8) and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to ~~(5)~~ (6), 632.895 (5m) and (8) to ~~(15)~~ (16), and 632.896.

SECTION 2. 40.51 (8m) of the statutes is amended to read:

40.51 **(8m)** Every health care coverage plan offered by the group insurance board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(15)~~ (16).

SECTION 3. 66.0137 (4) of the statutes is amended to read:

66.0137 **(4)** SELF–INSURED HEALTH PLANS. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self–insured basis, the self–insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),

632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), ~~and~~ (5)<u>, and (6)</u>, 632.895 (9) to ~~(15)~~ <u>(16)</u>, 632.896, and ~~767.25 (4m) (d)~~ <u>767.513 (4)</u>.

SECTION 4. 111.91 (2) (n) of the statutes is amended to read:

111.91 **(2)** (n) The provision to employees of the health insurance coverage required under s. 632.895 (11) to (14) <u>and (16)</u>.

SECTION 5. 120.13 (2) (g) of the statutes is amended to read:

120.13 **(2)** (g) Every self–insured plan under par. (b) shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) ~~and~~<u>,</u> (5)<u>, and (6)</u>, 632.895 (9) to ~~(15)~~ <u>(16)</u>, 632.896, and ~~767.25 (4m) (d)~~ <u>767.513 (4)</u>.

SECTION 6. 185.981 (4t) of the statutes is amended to read:

185.981 **(4t)** A sickness care plan operated by a cooperative association is subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85, 632.853, 632.855, 632.87 (2m), (3), (4), ~~and~~ (5)<u>, and (6)</u>, 632.895 (10) to ~~(15)~~ <u>(16)</u>, and 632.897 (10) and chs. 149 and 155.

SECTION 7. 185.983 (1) (intro.) of the statutes is amended to read:

185.983 **(1)** (intro.) Every such voluntary nonprofit sickness care plan shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87 (2m), (3), (4), ~~and~~ (5)<u>, and (6)</u>, 632.895 (5) and (9) to ~~(15)~~ <u>(16)</u>, 632.896, and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association shall:

SECTION 8. 609.86 of the statutes is created to read:

609.86 Coverage of hearing aids, cochlear implants, and related treatment for infants and children. Defined network plans are subject to s. 632.895 (16).

SECTION 9. 632.895 (16) of the statutes is created to read:

632.895 **(16)** HEARING AIDS, COCHLEAR IMPLANTS, AND RELATED TREATMENT FOR INFANTS AND CHILDREN. (a) In this subsection:

1. "Cochlear implant" includes any implantable instrument or device that is designed to enhance hearing.

2. "Hearing aid" means any externally wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories of such an instrument or device, except batteries and cords.

3. "Physician" has the meaning given in s. 448.01 (5).

4. "Self–insured health plan" means a self–insured health plan of the state or a county, city, village, town, or school district.

5. "Treatment" means services, diagnoses, procedures, surgery, and therapy provided by a health care professional.

(b) 1. Subject to par. (c) and except as provided in par. (d), every disability insurance policy and every self–insured health plan shall provide the following coverages:

a. Coverage of the cost of hearing aids and cochlear implants that are prescribed by a physician, or by an audiologist licensed under subch. II of ch. 459, 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 by an audiologist licensed under subch. II of ch. 459.

b. Coverage of the cost of treatment related to hearing aids and cochlear implants, including procedures for the implantation of cochlear devices, for a child specified in subd. 1. a.

2. Coverage of the cost of hearing aids under this subsection is not required to exceed the cost of one hearing aid per ear per child more often than once every 3 years.

3. The coverage required under this subsection may be subject to any cost–sharing provisions, limitations, or exclusions, other than a preexisting condition exclusion, that apply generally under the disability insurance policy or self–insured health plan.

(c) 1. Notwithstanding par. (b) 3. and subject to subd. 2., an individual disability insurance policy may impose a preexisting condition exclusion that does not exceed one year with respect to the coverage required under this subsection for cochlear implants and related treatment.

2. An individual disability insurance policy that imposes a preexisting condition exclusion as authorized under subd. 1. shall 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 period of any of the following conditions:

a. Vestibular aqueduct syndrome.

b. Viral infection.

c. Ototoxicity.

d. Autoimmune inner ear disease.

e. Any other condition with respect to which a failure to intervene would likely negatively impact the child's outcome.

(d) This subsection does not apply to any of the following:

1. A disability insurance policy that covers only certain specified diseases.

2. A health care plan offered by a limited service health organization, as defined in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not a defined network plan, as defined in s. 609.01 (1b).

3. A long–term care insurance policy.

4. A medicare replacement policy or a medicare supplement policy.

SECTION 10. Initial applicability.

(1) This act first applies to all of the following:

(a) Except as provided in paragraphs (b) and (c), disability insurance policies that are issued or renewed, and governmental self–insured health plans that are established, extended, modified, or renewed, on the effective date of this paragraph.

(b) Disability insurance policies covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with this act that are issued or renewed on the earlier of the following:

1. The day on which the collective bargaining agreement expires.

2. The day on which the collective bargaining agreement is extended, modified, or renewed.

(c) Governmental self–insured health plans covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with this act that are established, extended, modified, or renewed on the earlier of the following:

1. The day on which the collective bargaining agreement expires.

2. The day on which the collective bargaining agreement is extended, modified, or renewed.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)