

2009 DRAFTING REQUEST

Bill

Received: **11/25/2008**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Julie Lassa (608) 266-3123**

By/Representing: **Jessica Kelly**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lassa@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Insurance coverage of hearing aids and cochlear implants

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/25/2008	jdyer 11/25/2008		_____			S&L
/1			mduchek 11/25/2008	_____	mbarman 11/25/2008		S&L
/2	pkahler 12/11/2008	jdyer 12/12/2008	mduchek 12/12/2008	_____	sbasford 12/12/2008		S&L
/3	pkahler	jdyer	phenry	_____	lparisi		S&L

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	01/15/2009	01/15/2009	01/15/2009 _____		01/15/2009		
/4	pkahler 01/22/2009	jdye 01/22/2009	rschluet 01/22/2009 _____		sbasford 01/22/2009	cduerst 01/29/2009	

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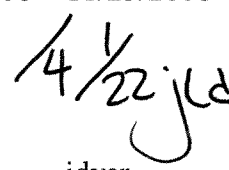
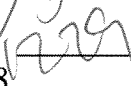
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Handwritten signatures and initials: 1/15 ph, 1/15 ph/s

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MD
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MDPH
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1/?	pkahler	<i>[Handwritten signature]</i> 11/25/08	<i>[Handwritten signature]</i> 11/23	<i>[Handwritten signature]</i> 11/23			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

11-25

Jessica Ford Kelly from Sen Lasso's office

sending companion for LRB-0649

the bill on ins. coverage of
hearing aids and cochlear implants

picking up from 2007 AB 133 + 2007 SB 88



State of Wisconsin
2009 - 2010 LEGISLATURE

-0932/1
LRB-0649/2
PJK/jld/pph
stays

LPS-check
auto refs
2009 BILL please

(in 11-25)
SOON
D-vote

✓

Regen

1 AN ACT *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
2 185.981 (4t) and 185.983 (1) (intro.); and *to create* 609.86 and 632.895 (16) of
3 the statutes; **relating to:** requiring health insurance coverage of hearing aids
4 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 wearable instruments or devices designed to enhance hearing, or cochlear implants, which include any implantable instruments or devices designed to enhance hearing, for any child under 18 years of age who has coverage under the policy or plan and who is certified as deaf or severely hearing impaired by a physician or an audiologist. 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

BILL

impose a preexisting condition exclusion that does not exceed one year with respect to coverage for cochlear implants. However, the bill requires an individual health insurance policy that imposes a preexisting condition exclusion to cover the cost of cochlear implants 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.

Under the bill, a group health insurance policy or a self-insured health plan subject to the requirement may require reimbursement for the cost of hearing aid or cochlear implant benefits provided to a child who: 1) first obtains coverage under the group health insurance policy or self-insured health plan after the coverage requirement goes into effect; 2) receives a hearing aid or cochlear implant within the first year of being covered under the policy or plan; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. This provision does not apply if the employer through which the child's parent has coverage discontinued the coverage or if the parent lost coverage because he or she was terminated or laid off from his or her employment.

Also under the bill, an individual health insurance policy may require reimbursement for the cost of hearing aid benefits provided to a child who: 1) first obtains coverage under the policy after the coverage requirement goes into effect; 2) receives a hearing aid within the first year of being covered under the policy; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. In addition, if an insurer denies coverage to a child under an individual health insurance policy and the child would be eligible for hearing aid or cochlear implant benefits, the insurer must advise the child's family of the availability of coverage for hearing aids and cochlear implants under BadgerCare Plus, which is a Medical Assistance program that provides health care benefits and under which any child in the state is eligible to receive or purchase coverage.

The bill requires an insurer to treat all health insurance policies issued by the insurer as one policy, and to treat all persons covered under all health insurance policies issued by the insurer as if they were covered under a single policy, so that the risk of loss for the hearing aid or implant coverage is spread among all of the policies issued by the insurer.

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:

- 1 **SECTION 1.** 40.51 (8) of the statutes is amended to read:
- 2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
- 3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)

BILL

1 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
2 ~~(5) (6)~~, 632.895 (5m) and (8) to ~~(15) (16)~~, and 632.896.

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

4 40.51 **(8m)** Every health care coverage plan offered by the group insurance
5 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
6 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(15) (16)~~.

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

8 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
9 a village provides health care benefits under its home rule power, or if a town
10 provides health care benefits, to its officers and employees on a self-insured basis,
11 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
12 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), and
13 ~~(5), and (6)~~, 632.895 (9) to ~~(15) (16)~~, 632.896, and ~~767.25 (4m) (d)~~ 767.513 (4).

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

15 111.91 **(2)** (n) The provision to employees of the health insurance coverage
16 required under s. 632.895 (11) to (14) and (16).

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

18 120.13 **(2)** (g) Every self-insured plan under par. (b) shall comply with ss.
19 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
20 632.85, 632.853, 632.855, 632.87 (4) and, ~~(5), and (6)~~, 632.895 (9) to ~~(15) (16)~~, 632.896,
21 and ~~767.25 (4m) (d)~~ 767.513 (4).

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

23 185.981 **(4t)** A sickness care plan operated by a cooperative association is
24 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,

BILL**SECTION 6**

1 632.853, 632.855, 632.87 (2m), (3), (4), ~~and (5), and (6)~~, 632.895 (10) to ~~(15)~~ (16), and
2 632.897 (10) and chs. 149 and 155.

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

4 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
5 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
6 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
7 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
8 632.855, 632.87 (2m), (3), (4), ~~and (5), and (6)~~, 632.895 (5) and (9) to ~~(15)~~ (16), 632.896,
9 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
10 shall:

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

12 **609.86 Coverage of hearing aids and cochlear implants for infants and**
13 **children.** Defined network plans are subject to s. 632.895 (16).

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

15 632.895 (16) HEARING AIDS AND COCHLEAR IMPLANTS FOR INFANTS AND CHILDREN.

16 (a) In this subsection:

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

19 2. "Hearing aid" has the meaning given in s. 459.01 (2).

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

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

23 (b) 1. Subject to pars. (c) and (d) and except as provided in par. (f), every
24 disability insurance policy and every self-insured health plan shall provide coverage
25 of the cost of hearing aids or cochlear implants for a child covered under the policy

BILL

1 or plan who is under 18 years of age and who is certified as deaf or hearing impaired
2 by a physician or by an audiologist licensed under subch. II of ch. 459.

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

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

9 (c) If a child who, as a dependent of his or her parent, first obtains coverage
10 under a group disability insurance policy or self-insured health plan after the
11 effective date of this paragraph [LRB inserts date], receives a hearing aid or
12 cochlear implant within the first year after the effective date of the coverage and then
13 discontinues the coverage before one year from the date on which the coverage
14 became effective, the group disability insurance policy or self-insured health plan
15 shall provide the coverage as required under this subsection but may require that
16 benefits paid for the cost of the hearing aid or cochlear implant be reimbursed if the
17 coverage required under par. (b) would have been subject to a preexisting condition
18 exclusion but for par. (b) 3. This paragraph does not apply if the child's coverage is
19 discontinued because the employer through which the parent received coverage
20 discontinued the coverage or because the parent was terminated or laid off from the
21 employment through which the parent received the coverage.

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

BILL**SECTION 9**

1 2. An individual disability insurance policy that imposes a preexisting
2 condition exclusion as authorized under subd. 1. shall nevertheless cover the cost of
3 cochlear implants for a child during the preexisting condition exclusion period if time
4 is of the essence for the child to receive cochlear implants as a result of the occurrence
5 during that period of any of the following conditions:

6 a. Vestibular aqueduct syndrome.

7 b. Meningitis.

8 c. Ototoxicity.

9 d. Autoimmune disease.

10 3. If a child who, as a dependent of his or her parent, first obtains coverage
11 under an individual disability insurance policy after the effective date of this
12 subdivision ... [LRB inserts date], receives a hearing aid within the first year after
13 the effective date of the coverage and then discontinues the coverage before one year
14 from the date on which the coverage became effective, the individual disability
15 insurance policy shall provide the coverage as required under this subsection but
16 may require that benefits paid for the cost of the hearing aid be reimbursed if the
17 coverage required under par. (b) with respect to hearing aids would have been subject
18 to a preexisting condition exclusion but for par. (b) 3.

19 4. If an insurer denies coverage under an individual disability insurance policy
20 to a child or the child's family and the child would be eligible as specified in par. (b)
21 1. for coverage of hearing aids or cochlear implants, the insurer shall advise the
22 child's family of the availability of coverage for hearing aids and cochlear implants
23 under the BadgerCare Plus program under s. 49.471 under the benefits described in
24 s. 49.46 (2) (a) and (b).

BILL

1 (e) An insurer that issues a disability insurance policy that is subject to the
2 coverage requirement under this subsection shall, for all purposes relating to that
3 coverage, treat all of the disability insurance policies issued by the insurer as if they
4 were a single policy and all persons covered under those policies as if they were
5 covered under a single policy so that the risk of loss for the coverage required under
6 this subsection is spread among all of the disability insurance policies issued by the
7 insurer.

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

- 9 1. A disability insurance policy that covers only certain specified diseases.
- 10 2. A health care plan offered by a limited service health organization, as defined
11 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
12 a defined network plan, as defined in s. 609.01 (1b).
- 13 3. A long-term care insurance policy.
- 14 4. A medicare replacement policy or a medicare supplement policy.

SECTION 10. Initial applicability.

15
16 (1) This act first applies to all of the following:

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

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

- 23 1. The day on which the collective bargaining agreement expires.
- 24 2. The day on which the collective bargaining agreement is extended, modified,
25 or renewed.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

- 0932/1dn
LRB-0649/2dn

PJK:fd:ph

~~November 21, 2008~~

3 date

↑
stays

The definition of "hearing aid" in s. 459.01 (2) covers any "wearable instrument or device." Therefore, I did not add coverage of "any other external devices." If you think that "wearable" in the current definition is more limited than "external," we can include our own definition in proposed s. 632.895 (16) that is the same as s. 459.01 (2), except that it substitutes "external" for "wearable."

I provided that the term "cochlear implant" includes any implantable instrument or device. That way the terminology in the rest of the statutory text does not have to be changed. Is this okay?

Is there a better way to phrase what occurs in the preexisting condition exclusion period under proposed s. 632.895 (16) (d) 2.? For example, I know that (at least some) autoimmune diseases are chronic and that what occurs is not the disease but an acute incidence of the symptoms or a period of illness (a flare). Do you have any suggestions for being more specific in proposed s. 632.895 (16) (d) 2. a. to d. as to what is actually occurring to make time of the essence?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0932/1dn

PJK:jld:md

November 25, 2008

The definition of "hearing aid" in s. 459.01 (2) covers any "wearable instrument or device." Therefore, I did not add coverage of "any other external devices." If you think that "wearable" in the current definition is more limited than "external," we can include our own definition in proposed s. 632.895 (16) that is the same as s. 459.01 (2), except that it substitutes "external" for "wearable."

I provided that the term "cochlear implant" includes any implantable instrument or device. That way the terminology in the rest of the statutory text does not have to be changed. Is this okay?

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kelly, Jessica
Sent: Wednesday, December 03, 2008 4:06 PM
To: Kahler, Pam
Cc: Topp, Jessica; Schneider, Marlin
Subject: Cochlear Implant Bill

Attachments: 09-09321dn.pdf

Pam,

We've worked out some of the questions that you had asked in the drafter's note on LRB 0932/1 (attached).

- (1) The definition of "hearing aid" in the language is fine, as is the definition of "cochlear implant". The Audiology Association and parent advocates feel that using the terminology "wearable and external instrument or device" would be beneficial to the language and avoid any misinterpretation.
- (2) As far as phrasing what occurs in the preexisting condition exclusion, we also spoke to the audiologists and have a few changes based on what they feel would be most appropriate.

Page 6, line 7 and 9

B) should be changed to "viral infection"

D) should be changed to "autoimmune inner ear disease".

- (3) The word "severely" was taken out of the legislation last session in context to hearing impairments...we want to cover kids to have mild to moderate hearing loss. That word is located in the LRB analysis.

- (4) As you probably remember from our meeting, we were trying to find a way to "tighten up" the language on what insurance companies would be required to prescribe for hearing impaired patients and we came up with language, which is semi-mirrored off of South Dakota language in their Administrative Code. I'm not sure how exactly to word it, but it would generally say that hearing aids and cochlear implants should be recognized as the prevailing standard and consistent with generally accepted professional medical or audiological standards of the provider's peer group. Does that make sense?



09-09321dn.pdf (7
KB)

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
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608-267-6797

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

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Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

12-4

phone call w/ Jessica re #4
prescribed by a phys or audiologist?
as medically nec?
or in accordance w/ accepted
medical standards?

Kahler, Pam

From: Kelly, Jessica
Sent: Thursday, December 11, 2008 11:06 AM
To: Kahler, Pam
Subject: FW: Language for Hearing aid and cochlear implant bill

Will this work?

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797

From: Alicia Boehme [mailto:aliciab@drwi.org]
Sent: Thursday, December 11, 2008 11:09 AM
To: Kelly, Jessica
Subject: Language for Hearing aid and cochlear implant bill

Hi Jessica,

Thanks to you and to Pam for trying to draft this bill in the best way possible. When we spoke, you mentioned that Pam suggested the sentence in the bill to read "prescribed by a physician or audiologist in accordance with accepted medical standards" but that there is still concern about using the word "medical". I have consulted with others on this issue. How about if we change the sentence to read "prescribed by a physician or audiologist in accordance with accepted professional standards" or to be more specific "in accordance with professional medical or audiological standards"?

Do you think this address the concern?

Best regards,
Alicia

Alicia Boehme
Disability Rights Wisconsin
131 W. Wilson Street, Suite 700
Madison, WI 53703
608/267-0214
800/928-8778 (consumers&families)

12/11/2008

888/758-6049 (TTY)
608/267-0368 (FAX)
aliciab@drwi.org
<http://www.disabilityrightswi.org>

Vote as if your life depends on it, because it does..." - Justin Dart Jr.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0932/15

PJK/hamd

52
r. m. is. n. e. n.

stays

2009 BILL

(in 12-11)

Regen

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

externally

Analysis by the Legislative Reference Bureau

Insert A

This bill requires health insurance policies and plans to cover the cost of hearing aids, which include any wearable instruments or devices designed to enhance hearing, or cochlear implants, which include any implantable instruments or devices designed to enhance hearing, for any child under 18 years of age who has coverage under the policy or plan and who is certified as deaf or severely hearing impaired by a physician or an audiologist. 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

BILL

impose a preexisting condition exclusion that does not exceed one year with respect to coverage for cochlear implants. However, the bill requires an individual health insurance policy that imposes a preexisting condition exclusion to cover the cost of cochlear implants 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.

Under the bill, a group health insurance policy or a self-insured health plan subject to the requirement may require reimbursement for the cost of hearing aid or cochlear implant benefits provided to a child who: 1) first obtains coverage under the group health insurance policy or self-insured health plan after the coverage requirement goes into effect; 2) receives a hearing aid or cochlear implant within the first year of being covered under the policy or plan; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. This provision does not apply if the employer through which the child's parent has coverage discontinued the coverage or if the parent lost coverage because he or she was terminated or laid off from his or her employment.

Also under the bill, an individual health insurance policy may require reimbursement for the cost of hearing aid benefits provided to a child who: 1) first obtains coverage under the policy after the coverage requirement goes into effect; 2) receives a hearing aid within the first year of being covered under the policy; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. In addition, if an insurer denies coverage to a child under an individual health insurance policy and the child would be eligible for hearing aid or cochlear implant benefits, the insurer must advise the child's family of the availability of coverage for hearing aids and cochlear implants under BadgerCare Plus, which is a Medical Assistance program that provides health care benefits and under which any child in the state is eligible to receive or purchase coverage.

The bill requires an insurer to treat all health insurance policies issued by the insurer as one policy, and to treat all persons covered under all health insurance policies issued by the insurer as if they were covered under a single policy, so that the risk of loss for the hearing aid or implant coverage is spread among all of the policies issued by the insurer.

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:

- 1 **SECTION 1.** 40.51 (8) of the statutes is amended to read:
- 2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
- 3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)

that are subject to the coverage requirement

those

BILL

1 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
2 ~~(5)~~ (6), 632.895 (5m) and (8) to ~~(15)~~ (16), and 632.896.

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

4 40.51 **(8m)** Every health care coverage plan offered by the group insurance
5 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
6 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(15)~~ (16).

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

8 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
9 a village provides health care benefits under its home rule power, or if a town
10 provides health care benefits, to its officers and employees on a self-insured basis,
11 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
12 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), and
13 ~~(5), and (6)~~, 632.895 (9) to ~~(15)~~ (16), 632.896, and ~~767.25 (4m) (d)~~ 767.513 (4).

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

15 111.91 **(2)** (n) The provision to employees of the health insurance coverage
16 required under s. 632.895 (11) to (14) and (16).

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

18 120.13 **(2)** (g) Every self-insured plan under par. (b) shall comply with ss.
19 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
20 632.85, 632.853, 632.855, 632.87 (4) ~~and, (5), and (6)~~, 632.895 (9) to ~~(15)~~ (16), 632.896,
21 and ~~767.25 (4m) (d)~~ 767.513 (4).

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

23 185.981 **(4t)** A sickness care plan operated by a cooperative association is
24 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,

BILL

1 632.853, 632.855, 632.87 (2m), (3), (4), ~~and (5), and (6)~~, 632.895 (10) to ~~(15)~~ (16), and
2 632.897 (10) and chs. 149 and 155.

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

4 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
5 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
6 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
7 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
8 632.855, 632.87 (2m), (3), (4), ~~and (5), and (6)~~, 632.895 (5) and (9) to ~~(15)~~ (16), 632.896,
9 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
10 shall:

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

12 **609.86 Coverage of hearing aids and cochlear implants for infants and**
13 **children.** Defined network plans are subject to s. 632.895 (16).

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

15 **632.895 (16) HEARING AIDS AND COCHLEAR IMPLANTS FOR INFANTS AND CHILDREN.**

16 (a) In this subsection:

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

19 2. "Hearing aid" has the meaning given in s. 459.01 (2).

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

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

23 (b) 1. Subject to pars. (c) and (d) and except as provided in par. (f), every
24 disability insurance policy and every self-insured health plan shall provide coverage
25 of the cost of hearing aids or cochlear implants for a child covered under the policy

g
✓
Insert 4-19

✓
Insert 4-25

BILL

1 or plan who is under 18 years of age and who is certified as deaf or hearing impaired
2 by a physician or by an audiologist licensed under subch. II of ch. 459.

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

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

9 (c) If a child who, as a dependent of his or her parent, first obtains coverage
10 under a group disability insurance policy or self-insured health plan after the
11 effective date of this paragraph [LRB inserts date], receives a hearing aid or
12 cochlear implant within the first year after the effective date of the coverage and then
13 discontinues the coverage before one year from the date on which the coverage
14 became effective, the group disability insurance policy or self-insured health plan
15 shall provide the coverage as required under this subsection but may require that
16 benefits paid for the cost of the hearing aid or cochlear implant be reimbursed if the
17 coverage required under par. (b) would have been subject to a preexisting condition
18 exclusion but for par. (b) 3. This paragraph does not apply if the child's coverage is
19 discontinued because the employer through which the ^{✓ → child's} parent received coverage
20 discontinued the coverage or because the parent was terminated or laid off from the
21 employment through which the parent received the coverage.

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

BILL

1 2. An individual disability insurance policy that imposes a preexisting
2 condition exclusion as authorized under subd. 1. shall nevertheless cover the cost of
3 cochlear implants for a child during the preexisting condition exclusion period if time
4 is of the essence for the child to receive cochlear implants as a result of the occurrence
5 during that period of any of the following conditions:

6 a. Vestibular aqueduct syndrome.

7 b. ~~Meningitis~~

→ Viral infection

8 c. Ototoxicity.

9 d. Autoimmune disease.

→ inner ear ✓

10 3. If a child who, as a dependent of his or her parent, first obtains coverage
11 under an individual disability insurance policy after the effective date of this
12 subdivision [LRB inserts date], receives a hearing aid within the first year after
13 the effective date of the coverage and then discontinues the coverage before one year
14 from the date on which the coverage became effective, the individual disability
15 insurance policy shall provide the coverage as required under this subsection but
16 may require that benefits paid for the cost of the hearing aid be reimbursed if the
17 coverage required under par. (b) with respect to hearing aids would have been subject
18 to a preexisting condition exclusion but for par. (b) 3.

19 4. If an insurer denies coverage under an individual disability insurance policy
20 to a child or the child's family and the child would be eligible as specified in par. (b)
21 1. for coverage of hearing aids or cochlear implants, the insurer shall advise the
22 child's family of the availability of coverage for hearing aids and cochlear implants
23 under the BadgerCare Plus program under s. 49.471 under the benefits described in
24 s. 49.46 (2) (a) and (b).

BILL

1 (e) An insurer that issues a disability insurance policy that is subject to the
 2 coverage requirement under this subsection shall, for all purposes relating to that
 3 coverage, treat all of the disability insurance policies issued by the insurer as if they
 4 were a single policy and all persons covered under those policies as if they were
 5 covered under a single policy so that the risk of loss for the coverage required under
 6 this subsection is spread among all of the disability insurance policies issued by the
 7 insurer.

that are subject to the coverage requirement

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

- 9 1. A disability insurance policy that covers only certain specified diseases.
- 10 2. A health care plan offered by a limited service health organization, as defined
 11 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
 12 a defined network plan, as defined in s. 609.01 (1b).
- 13 3. A long-term care insurance policy.
- 14 4. A medicare replacement policy or a medicare supplement policy.

SECTION 10. Initial applicability.

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

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

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

- 23 1. The day on which the collective bargaining agreement expires.
- 24 2. The day on which the collective bargaining agreement is extended, modified,
 25 or renewed.

BILL**SECTION 10**

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

- 5 1. The day on which the collective bargaining agreement expires.
- 6 2. The day on which the collective bargaining agreement is extended, modified,
7 or renewed.

8 **SECTION 11. Effective date.**

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

11 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0932/2ins
PJK.....

INSERT A

* *not* that are prescribed by a physician^h or audiologist in accordance with accepted professional medical or audiological standards, *not*
(END OF INSERT A)

INSERT 4-19

1 *not* means any[✓] externally wearable instrument or device[✓] designed for or offered[✓] for
2 the purpose of aiding or compensating for[✓] impaired human hearing and any parts,
3 attachments, or accessories of such an instrument or device, except batteries and
4 cords *NO #*

(END OF INSERT 4-19)

INSERT 4-25

5 *not* that are prescribed by a physician, or by an audiologist licensed under[✓] subch.
6 II of ch. 459[✓], in accordance with accepted professional medical or audiological
7 standards, *NO #*

(END OF INSERT 4-25)

Kahler, Pam

From: Kelly, Jessica
Sent: Thursday, January 08, 2009 3:43 PM
To: Kahler, Pam
Subject: Cochlear Bill LRB 0932/2

Pam,

I spoke with Eileen Mallow, Jennifer Stegall, Julie Walsh & Diane Dambach from OCI today, as well as Alicia Boehme who you met at our last meeting, on the cochlear implant bill and have some changes that OCI suggested:

- ✓(1) Refer to hearing aids AND cochlear implants (not hearing aids OR cochlear implants) throughout the bill.
- ✓(2) Specify that the procedure to implant the cochlear device is required to be covered.
- ✓(3) P. 7 lines 7-14 should be removed. OCI said that this language was not necessary because rate banding will take care of it.
- ✓(4) P. 5 lines 16 - p. 6 line 3 should be removed because it conflicts with HIPAA and insurance portability
 - ✓(a) P. 6 lines 17-25 should be removed for the same reason
- ✓(5) When referencign hearing aid and cochlear implants being covered by insurance companies we need to add: "and treatment related to the hearing aids and cochlear implants" to ensure that insurers cannot deny cochlear surgery, etc.
- (6) P. 6 lines 13-16...we want to add (e) in case there is a medical situation that presents itself that is not listed in (a) - (d) so we won't have to pass another bill...and to allow patients who are denied coverage the ability to have flexibility with filing a grievance procedure. I am speaking to a hearing specialist at the Medical College of Wisconsin regarding language on this and will get you her recommendations as soon as I can.

Thank you so much for all your work on this...I know we've been nitpicky, but we really hope to avoid major amendments.

Any idea as to when the /3 draft might be turned around?

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797

Kahler, Pam

From: Kelly, Jessica
Sent: Tuesday, January 13, 2009 12:45 PM
To: Kahler, Pam
Subject: RE: Cochlear Bill LRB 0932/2

Thank you.

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797

From: Kahler, Pam
Sent: Tuesday, January 13, 2009 12:45 PM
To: Kelly, Jessica
Subject: RE: Cochlear Bill LRB 0932/2

OK

From: Kelly, Jessica
Sent: Tuesday, January 13, 2009 12:43 PM
To: Kahler, Pam
Subject: RE: Cochlear Bill LRB 0932/2

I think it will make people that I'm working with happier. ;-)

Jessica Ford Kelly

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608-267-6797

From: Kahler, Pam
Sent: Tuesday, January 13, 2009 12:42 PM
To: Kelly, Jessica
Subject: RE: Cochlear Bill LRB 0932/2

Actually, I created a definition for "treatment" that includes services, diagnoses, procedures, and therapy provided by a health care professional. Do you want me to add "surgery," even though "procedure" should cover it?

From: Kelly, Jessica
Sent: Tuesday, January 13, 2009 12:27 PM
To: Kahler, Pam
Subject: RE: Cochlear Bill LRB 0932/2

Fantastic! Thank you.

I placed a follow up call to the Medical College of Wisconsin but have not heard back as of yet. One other thing that I was going to add with the MCW change is that I forgot to tell you that OCI suggested, on Page 5 line 5 that we place that treatments AND surgeries be covered...not just treatment.

Jessica Ford Kelly

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608-267-6797

From: Kahler, Pam
Sent: Tuesday, January 13, 2009 12:24 PM
To: Kelly, Jessica
Subject: RE: Cochlear Bill LRB 0932/2

Jessica,

I have had a chance to make the requested changes. Let me know what you want added for no. 6. I will hold the draft until that gets added. Thanks.

Pam

From: Kelly, Jessica
Sent: Thursday, January 08, 2009 3:43 PM
To: Kahler, Pam
Subject: Cochlear Bill LRB 0932/2

Pam,

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Jessica Ford Kelly

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608-267-6797

Kahler, Pam

From: Kelly, Jessica
Sent: Thursday, January 15, 2009 10:09 AM
To: Kahler, Pam
Subject: Re: Bill

Yes...we are good to go.

From: Kahler, Pam
To: Kelly, Jessica
Sent: Thu Jan 15 10:03:35 2009
Subject: RE: Bill

I'm not sure what provision you mean, but I will assume that the change listed below is the only other thing that needs to be added (in addition to the other changes listed in 1 through 5 of your email of January 8). Thanks!

From: Kelly, Jessica
Sent: Thursday, January 15, 2009 9:52 AM
To: Kahler, Pam
Subject: Re: Bill

Oci said that provision you just added would do the trick for grievance rights. So we should be all set for the final draft.

From: Kahler, Pam
To: Kelly, Jessica
Sent: Thu Jan 15 09:46:51 2009
Subject: RE: Bill

Jessica, is this the last change, or are we waiting for something else (something about allowing flexibility with filing a grievance)?

From: Kelly, Jessica
Sent: Thursday, January 15, 2009 6:55 AM
To: Kahler, Pam
Subject: FW: Bill

Here is the language. Thanks.

From: Burg, Linda [mailto:lbarg@mcw.edu]
Sent: Wed 1/14/2009 5:05 PM
To: Kelly, Jessica
Subject: Bill

Hi Jessica,

Sorry for the delay—this is what my colleague and I came up with:

01/15/2009

...or any other condition when failure to intervene could negatively impact the child's outcome.

Let me know if this will work--

Linda S. Burg, Au.D., CCC-A
Coordinator, Koss Cochlear Implant Program
Medical College of Wisconsin
414-805-5586
9200 W. Wisconsin Ave.
Milwaukee, WI. 53226
lburg@mcw.edu



Wm is m

2009 BILL

*Wanted today (1-15)
Friday
D. [unclear]*

X *Regen*

1 AN ACT to amend 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
2 185.981 (4t) and 185.983 (1) (intro.); and to create 609.86 and 632.895 (16) of
3 the statutes; relating to: requiring health insurance coverage of hearing aids
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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, ~~or~~ 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. 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

and and

Insert A-1

and related treatment

and related treatment

BILL

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. However, the bill requires an individual health insurance policy that imposes a preexisting condition exclusion to cover the cost of cochlear implants 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.

Under the bill, a group health insurance policy or a self-insured health plan subject to the requirement may require reimbursement for the cost of hearing aid or cochlear implant benefits provided to a child who: 1) first obtains coverage under the group health insurance policy or self-insured health plan after the coverage requirement goes into effect; 2) receives a hearing aid or cochlear implant within the first year of being covered under the policy or plan; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. This provision does not apply if the employer through which the child's parent has coverage discontinued the coverage or if the parent lost coverage because he or she was terminated or laid off from his or her employment.

Also under the bill, an individual health insurance policy may require reimbursement for the cost of hearing aid benefits provided to a child who: 1) first obtains coverage under the policy after the coverage requirement goes into effect; 2) receives a hearing aid within the first year of being covered under the policy; 3) discontinues the coverage before it has been in effect for at least one year; and 4) would have been subject to a preexisting condition exclusion but for the prohibition against it. In addition, if an insurer denies coverage to a child under an individual health insurance policy and the child would be eligible for hearing aid ~~or~~ cochlear implant benefits, the insurer must advise the child's family of the availability of coverage for hearing aids and cochlear implants under BadgerCare Plus, which is a Medical Assistance program that provides health care benefits and under which any child in the state is eligible to receive or purchase coverage.

The bill requires an insurer to treat all health insurance policies issued by the insurer that are subject to the coverage requirement as one policy, and to treat all persons covered under all health insurance policies issued by the insurer that are subject to the coverage requirement as if they were covered under a single policy, so that the risk of loss for the hearing aid or implant coverage is spread among all of those policies issued by the insurer.

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:

and related treatment

→ and

Q

BILL

1 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
2 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
3 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
4 ~~(5)~~ (6), 632.895 (5m) and (8) to ~~(15)~~ (16),[✓] and 632.896.

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

6 40.51 (8m) Every health care coverage plan offered by the group insurance
7 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
8 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(15)~~ (16).[✓]

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

10 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
11 a village provides health care benefits under its home rule power, or if a town
12 provides health care benefits, to its officers and employees on a self-insured basis,
13 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
14 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), and
15 ~~(5), and (6)~~, 632.895 (9) to ~~(15)~~ (16),[✓] 632.896, and ~~767.25 (4m) (d)~~ 767.513 (4).

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

17 111.91 (2) (n) The provision to employees of the health insurance coverage
18 required under s. 632.895 (11) to (14) and (16).[✓]

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

20 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
21 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
22 632.85, 632.853, 632.855, 632.87 (4) ~~and~~, (5), and (6), 632.895 (9) to ~~(15)~~ (16),[✓] 632.896,
23 and ~~767.25 (4m) (d)~~ 767.513 (4).

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

BILL

SECTION 6

1 185.981 (4t) A sickness care plan operated by a cooperative association is
 2 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
 3 632.853, 632.855, 632.87 (2m), (3), (4), and (5), and (6), 632.895 (10) to ~~(15)~~ (16), and
 4 632.897 (10) and chs. 149 and 155.

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

6 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
 7 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
 8 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
 9 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
 10 632.855, 632.87 (2m), (3), (4), and (5), and (6), 632.895 (5) and (9) to ~~(15)~~ (16), 632.896,
 11 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
 12 shall:

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

14 **609.86 Coverage of hearing aids and cochlear implants for infants and**
 15 **children.** Defined network plans are subject to s. 632.895 (16).
 16 **SECTION 9.** 632.895 (16) of the statutes is created to read:

17 632.895 (16) HEARING AIDS AND COCHLEAR IMPLANTS FOR INFANTS AND CHILDREN.
 18 (a) In this subsection:

- 19 1. "Cochlear implant" includes any implantable instrument or device that is
 20 designed to enhance hearing.
- 21 2. "Hearing aid" means any externally wearable instrument or device designed
 22 for or offered for the purpose of aiding or compensating for impaired human hearing
 23 and any parts, attachments, or accessories of such an instrument or device, except
 24 batteries and cords.
- 25 3. "Physician" has the meaning given in s. 448.01 (5).

Handwritten note: (B) and related treatment

Handwritten note: (CS) and related treatment

BILL

Insert 5-2

Insert 5-9

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

3 (b) 1. Subject to pars. (c) [✓] and (d) ^e and except as provided in par. (f) ^d, every
4 disability insurance policy and every self-insured health plan shall provide coverage
5 of the cost of hearing aids ^{and} or cochlear implants that are prescribed by a physician,
6 or by an audiologist licensed under subch. II of ch. 459, in accordance with accepted
7 professional medical or audiological standards, for a child covered under the policy
8 or plan who is under 18 years of age and who is certified as deaf or hearing impaired
9 by a physician or by an audiologist licensed under subch. II of ch. 459.

10 ~~3~~ ^{and related treatment ✓} Coverage of the cost of hearing aids ^{under this subsection ✓} is not required to
11 exceed the cost of one hearing aid ^{and related treatment ✓} per ear per child more often than once every 3 years.

12 ~~4~~ ⁴ The coverage required under this subsection may be subject to any
13 cost-sharing provisions, limitations, or exclusions, other than a preexisting
14 condition exclusion, that apply generally under the disability insurance policy or
15 self-insured health plan.

16 (c) If a child who, as a dependent of his or her parent, first obtains coverage
17 under a group disability insurance policy or self-insured health plan after the
18 effective date of this paragraph [LRB inserts date], receives a hearing aid or
19 cochlear implant within the first year after the effective date of the coverage and then
20 discontinues the coverage before one year from the date on which the coverage
21 became effective, the group disability insurance policy or self-insured health plan
22 shall provide the coverage as required under this subsection but may require that
23 benefits paid for the cost of the hearing aid or cochlear implant be reimbursed if the
24 coverage required under par. (b) would have been subject to a preexisting condition
25 exclusion but for par. (b) 3. This paragraph does not apply if the child's coverage is

BILL

SECTION 9

1 discontinued because the employer through which the child's parent received
 2 coverage discontinued the coverage or because the parent was terminated or laid off
 3 from the employment through which the parent received the coverage.

4 ~~(d)~~ 1. Notwithstanding par. (b) ~~3.~~⁴ and subject to subd. 2., an individual
 5 disability insurance policy may impose a preexisting condition exclusion that does
 6 not exceed one year with respect to the coverage required under this subsection for
 7 cochlear implants *and related treatment*

8 2. An individual disability insurance policy that imposes a preexisting
 9 condition exclusion as authorized under subd. 1. shall nevertheless cover the cost of
 10 cochlear implants for a child during the preexisting condition exclusion period if time
 11 is of the essence for the child to receive cochlear implants as a result of the occurrence
 12 during that period of any of the following conditions:

- 13 a. Vestibular aqueduct syndrome.
- 14 b. Viral infection.
- 15 c. Ototoxicity.
- 16 d. Autoimmune inner ear disease.

17 3. If a child who, as a dependent of his or her parent, first obtains coverage
 18 under an individual disability insurance policy after the effective date of this
 19 subdivision ... [LRB inserts date], receives a hearing aid within the first year after
 20 the effective date of the coverage and then discontinues the coverage before one year
 21 from the date on which the coverage became effective, the individual disability
 22 insurance policy shall provide the coverage as required under this subsection but
 23 may require that benefits paid for the cost of the hearing aid be reimbursed if the
 24 coverage required under par. (b) with respect to hearing aids would have been subject
 25 to a preexisting condition exclusion but for par. (b) 3.

Insert 6-16

BILL

and related treatment

1 ~~3~~ 4. If an insurer denies coverage under an individual disability insurance policy
 2 to a child or the child's family and the child would be eligible as specified in par. (b)
 3 1. for coverage of hearing aids *and* cochlear implants, the insurer shall advise the
 4 child's family of the availability of coverage for hearing aids and cochlear implants
 5 under the BadgerCare Plus program under s. 49.471 under the benefits described in
 6 s. 49.46 (2) (a) and (b).

7 (e) An insurer that issues a disability insurance policy that is subject to the
 8 coverage requirement under this subsection shall, for all purposes relating to that
 9 coverage, treat all of the disability insurance policies issued by the insurer that are
 10 subject to the coverage requirement as if they were a single policy and all persons
 11 covered under those policies as if they were covered under a single policy so that the
 12 risk of loss for the coverage required under this subsection is spread among all of the
 13 disability insurance policies issued by the insurer that are subject to the coverage
 14 requirement.

15 ~~4~~ 2 ~~3~~ This subsection does not apply to any of the following:
 16 1. A disability insurance policy that covers only certain specified diseases.
 17 2. A health care plan offered by a limited service health organization, as defined
 18 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
 19 a defined network plan, as defined in s. 609.01 (1b).
 20 3. A long-term care insurance policy.
 21 4. A medicare replacement policy or a medicare supplement policy.

SECTION 10. Initial applicability.

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

BILL

SECTION 10

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

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

- 7 1. The day on which the collective bargaining agreement expires.
- 8 2. The day on which the collective bargaining agreement is extended, modified,
9 or renewed.

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

- 14 1. The day on which the collective bargaining agreement expires.
- 15 2. The day on which the collective bargaining agreement is extended, modified,
16 or renewed.

SECTION 11. Effective date.

17 (1) This act takes effect on the first day of the 7th month beginning after
18 publication.
19

20 (END)

D-note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0932/3ins
PJK:.....

INSERT A-1

w/ff Treatment[✓] (defined as services, diagnoses, procedures, surgery, and therapy provided by a health care professional) that is related to the hearing aids and cochlear implants is also required to be covered.
(END OF INSERT A-1) ← add period

INSERT 5-2

1 ④ 5. "Treatment"[✓] means services, diagnoses, procedures, surgery, and therapy
2 provided by a health care professional.

(END OF INSERT 5-2)

INSERT 5-9

3 ④ 2. The coverage required under this subsection[✓] shall include coverage of
4 treatment[✓] related to the hearing aids and cochlear implants, including procedures
5 for the implantation of cochlear devices.[✓]

(END OF INSERT 5-9)

INSERT 6-16

6 ④ e. Any other condition with respect to which a failure to intervene would likely

7 have a negative effect on the child's health outcome.[✓]

✓ negatively impact

(END OF INSERT 6-16)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0932/3dn

PJK:....

date

jld

As you requested, I have added "and related treatment" ✓ wherever "hearing aid" or "cochlear implant" appears. ✓ Please review these additions very carefully. They may have the effect of limiting coverage of services that would not have been limited before, such as in proposed s. 632.895 (16) (b) 3. ✓ You may decide that the language of proposed s. 632.895 (16) (b) 2. ✓ is sufficient without adding "and related treatment" throughout the rest of the draft.

I think that "child's outcome" in proposed s. 632.895 (16) (c) 2. e. ✓ is a bit vague. I assume what you mean by that is the success of the intervention to correct or improve the child's impaired hearing, but there may be differing interpretations on exactly what "outcome" is intended. ✓

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0932/3dn

PJK:jld:ph

January 15, 2009

As you requested, I have added "and related treatment" wherever "hearing aid" or "cochlear implant" appears. Please review these additions very carefully. They may have the effect of limiting coverage of services that would not have been limited before, such as in proposed s. 632.895 (16) (b) 3. You may decide that the language of proposed s. 632.895 (16) (b) 2. is sufficient without adding "and related treatment" throughout the rest of the draft.

I think that "child's outcome" in proposed s. 632.895 (16) (c) 2. e. is a bit vague. I assume what you mean by that is the success of the intervention to correct or improve the child's impaired hearing, but there may be differing interpretations on exactly what "outcome" is intended.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kelly, Jessica
Sent: Thursday, January 22, 2009 12:00 PM
To: Kahler, Pam
Cc: 'Alicia Boehme'
Subject: Cochlear Draft

Pam,

I spoke with Joyce Kiel, Sheridan and Nygren's offices this morning. Yikes!

Here's the deal:

Can you:

- (1) edit out that portion we spoke about on p. 5 lines 6-8.
- (2) completely remove the referral to BadgerCare Plus referral in the analysis and language?
- (3) fix the technical stuff (obviously) that Joyce found. *was in (2) ↑*

Joyce is doing a comparison memo and is waiting to get the /4, as you probably know. Thank you, thank you thank you for all your hard work on this. I know we're being demanding. ;-)

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797



in is run

2009 BILL

today or Friday

X Regen

1 AN ACT to amend 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
 2 185.981 (4t) and 185.983 (1) (intro.); and to create 609.86 and 632.895 (16) of
 3 the statutes; relating to: requiring health insurance coverage of hearing aids
 4 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) that is related to the hearing aids and cochlear implants is also required to be covered. Coverage for 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. 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,

for such a child

2

2

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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.

Under the bill, if an insurer denies coverage to a child under an individual health insurance policy and the child would be eligible for hearing aid and cochlear implant benefits, the insurer must advise the child's family of the availability of coverage for hearing aids and cochlear implants and related treatment under BadgerCare Plus, which is a Medical Assistance program that provides health care benefits and under which any child in the state is eligible to receive or purchase coverage.

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:

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

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

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

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(15)~~ (16).

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

BILL

1 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
2 a village provides health care benefits under its home rule power, or if a town
3 provides health care benefits, to its officers and employees on a self-insured basis,
4 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
5 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), and
6 (5), and (6), 632.895 (9) to ~~(15)~~ (16), 632.896, and ~~767.25 (4m) (d)~~ 767.513 (4).

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

8 111.91 (2) (n) The provision to employees of the health insurance coverage
9 required under s. 632.895 (11) to (14) and (16).

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

11 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
12 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
13 632.85, 632.853, 632.855, 632.87 (4) and (5), and (6), 632.895 (9) to ~~(15)~~ (16), 632.896,
14 and ~~767.25 (4m) (d)~~ 767.513 (4).

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

16 185.981 (4t) A sickness care plan operated by a cooperative association is
17 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
18 632.853, 632.855, 632.87 (2m), (3), (4), and (5), and (6), 632.895 (10) to ~~(15)~~ (16), and
19 632.897 (10) and chs. 149 and 155.

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

21 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
22 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
23 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
24 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
25 632.855, 632.87 (2m), (3), (4), and (5), and (6), 632.895 (5) and (9) to ~~(15)~~ (16), 632.896,

BILL

SECTION 7

1 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
2 shall:

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

4 **609.86 Coverage of hearing aids, cochlear implants, and related**
5 **treatment for infants and children.** Defined network plans are subject to s.
6 632.895 (16). ✓

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

8 **632.895 (16) HEARING AIDS, COCHLEAR IMPLANTS, AND RELATED TREATMENT FOR**
9 **INFANTS AND CHILDREN.** (a) In this subsection:

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

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

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

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

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

21 (b) 1. Subject to par. (c) ✓ and except as provided in ✓ par. (d), every disability
22 insurance policy and every self-insured health plan shall provide ✓ coverage of the cost
23 of hearing aids and cochlear implants that are prescribed by a physician, or by an
24 audiologist licensed under subch. II of ch. 459, in accordance with accepted
25 professional medical or audiological standards, for a child covered under the policy

✓ The following coverages:

→ Fla.

BILL

the cost of

1 or plan who is under 18 years of age and who is certified as deaf or hearing impaired
2 by a physician or by an audiologist licensed under subch. II of ch. 459.

3 ~~¶ b 4~~. The coverage required under this subsection shall include coverage of
4 treatment related to the hearing aids and cochlear implants, including procedures
5 for the implantation of cochlear devices, for a child specified in subd. 1. a

6 ~~¶ 2 4~~. Coverage of the cost of hearing aids and related treatment under this
7 subsection is not required to exceed the cost of one hearing aid and related treatment
8 per ear per child more often than once every 3 years.

9 ~~¶ 3 4~~. The coverage required under this subsection may be subject to any
10 cost-sharing provisions, limitations, or exclusions, other than a preexisting
11 condition exclusion, that apply generally under the disability insurance policy or
12 self-insured health plan.

13 (c) 1. Notwithstanding par. (b) ~~4~~ and subject to subd. 2, an individual disability
14 insurance policy may impose a preexisting condition exclusion that does not exceed
15 one year with respect to the coverage required under this subsection for cochlear
16 implants and related treatment.

17 2. An individual disability insurance policy that imposes a preexisting
18 condition exclusion as authorized under subd. 1 shall nevertheless cover the cost of
19 cochlear implants and related treatment for a child during the preexisting condition
20 exclusion period if time is of the essence for the child to receive cochlear implants and
21 related treatment as a result of the occurrence during that period of any of the
22 following conditions:

- 23 a. Vestibular aqueduct syndrome.
- 24 b. Viral infection.
- 25 c. Ototoxicity.

BILL

- 1 d. Autoimmune inner ear disease.
- 2 e. Any other condition with respect to which a failure to intervene would likely
- 3 negatively impact the child's outcome.

4 3. If an insurer denies coverage under an individual disability insurance policy

5 to a child or the child's family and the child would be eligible as specified in par. (b)

6 1. for coverage of hearing aids and cochlear implants and related treatment, the

7 insurer shall advise the child's family of the availability of coverage for hearing aids

8 and cochlear implants and related treatment under the BadgerCare Plus program

9 under s. 49.471 under the benefits described in s. 49.46 (2) (a) and (b).

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

- 11 1. A disability insurance policy that covers only certain specified diseases.
- 12 2. A health care plan offered by a limited service health organization, as defined
- 13 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
- 14 a defined network plan, as defined in s. 609.01 (1b).
- 15 3. A long-term care insurance policy.
- 16 4. A medicare replacement policy or a medicare supplement policy.

17 **SECTION 10. Initial applicability.**

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

19 (a) Except as provided in paragraphs (b) and (c), disability insurance policies

20 that are issued or renewed, and governmental self-insured health plans that are

21 established, extended, modified, or renewed, on the effective date of this paragraph.

22 (b) Disability insurance policies covering employees who are affected by a

23 collective bargaining agreement containing provisions inconsistent with this act

24 that are issued or renewed on the earlier of the following:

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

Parisi, Lori

From: Kelly, Jessica
Sent: Thursday, January 29, 2009 4:39 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0932/4 Topic: Insurance coverage of hearing aids and cochlear implants

Please Jacket LRB 09-0932/4 for the SENATE.