

1 H.266

2 Introduced by Representatives Wood of Waterbury, Anthony of Barre City,
3 Brady of Williston, Cordes of Lincoln, Goldman of
4 Rockingham, Hango of Berkshire, Hooper of Burlington,
5 Howard of Rutland City, Killacky of South Burlington,
6 Kornheiser of Brattleboro, Nicoll of Ludlow, Noyes of Wolcott,
7 Ode of Burlington, Patt of Worcester, Squirrell of Underhill,
8 Sullivan of Dorset, Vyhovsky of Essex, White of Bethel,
9 Whitman of Bennington, and Yantachka of Charlotte

10 Referred to Committee on

11 Date:

12 Subject: Health; health insurance; hearing aids

13 Statement of purpose of bill as introduced: This bill proposes to require
14 Medicaid, the State Employees Health Plan, and large group health insurance
15 plans to provide coverage for hearing aids beginning in plan year 2022. It
16 would also direct the Agency of Human Services to apply for federal approval
17 to modify the essential health benefit package for Vermont's individual and
18 small group health insurance plans to include coverage for hearing aids
19 beginning in plan year 2023.

~~An act relating to an incremental approach to health insurance coverage for hearing aids.~~ *An act relating to health insurance coverage for hearing aids*

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 ~~Sec. 1. 8 V.S.A. § 4088I is added to read:~~

3 § 4088I. HEARING AIDS

4 (a) As used in this section:

5 (1) “Health insurance plan” means a group health insurance policy or
6 health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402,
7 and includes Medicare and any other plan offered or administered by the State
8 or a subdivision or instrumentality of the State, but does not include:

9 (A) a qualified health benefit plan or reflective health benefit plan
10 offered in accordance with 33 V.S.A., chapter 18, subchapter 1; or

11 (B) a policy or plan providing coverage for a specified disease or
12 other limited benefit coverage.

13 (2) “Hearing aid” means any small, wearable electronic instrument or
14 device designed and intended for the ear for the purpose of aiding or
15 compensating for impaired human hearing and any parts, attachments, or
16 accessories, including earmolds and associated remote microphones that pair
17 with hearing aids to improve word comprehension in difficult listening
18 situations in live or telecommunication settings. The term does not include
19 batteries, cords, large-audience assisted listening devices, such as those

1 ~~designed for auditoriums, or stand-alone assisted listening devices that can~~
2 function without a hearing aid.

3 (3) "Hearing aid professional services" means the practice of fitting,
4 selecting, dispensing, selling, or servicing hearing aids, or a combination,
5 including:

6 (A) evaluation for a hearing aid;

7 (B) fitting of a hearing aid;

8 (C) programming of a hearing aid;

9 (D) hearing aid repair;

10 (E) follow-up adjustments, servicing, and maintenance of a hearing
11 aid;

12 (F) ear mold impressions; and

13 (G) auditory rehabilitation and training.

14 (4) "Hearing care professional" means an audiologist or hearing aid
15 dispenser licensed under 26 V.S.A. chapter 67, a physician licensed under
16 26 V.S.A. chapter 23 or 33, a physician assistant licensed under 26 V.S.A.
17 chapter 31, or an advanced practice registered nurse licensed under 26 V.S.A.
18 chapter 28.

19 (b) A health insurance plan shall cover the cost of a hearing aid for each
20 ear and the associated hearing aid professional services when the hearing aid
21 or aids are prescribed, fitted, and dispensed by a hearing care professional.

1 ~~(c)(1) The coverage provided by a health plan for hearing aids and~~
2 ~~associated services shall be limited only by medical necessity.~~

3 ~~(2) A covered individual may select a hearing aid that exceeds the limits~~
4 ~~set forth in subdivision (1) of this subsection and pay the additional cost.~~

5 ~~(d) The coverage required by this section shall not be subject to a~~
6 ~~deductible, co-payment, or coinsurance provision that is less favorable to a~~
7 ~~covered individual than the deductible, co-payment, or coinsurance provisions~~
8 ~~that apply generally to other nonprimary care items and services under the~~
9 ~~health insurance plan.~~

10 ~~(e)(1) A covered individual who has exhausted all applicable internal~~
11 ~~review procedures provided by the health insurance plan shall have the right to~~
12 ~~an independent external review as set forth in section 4089f of this title.~~

13 ~~(2) The provisions of subdivision (1) of this subsection shall not apply~~
14 ~~to a Medicaid beneficiary, whose grievance shall be redressed as set forth in~~
15 ~~3 V.S.A. § 3091.~~

16 Sec. 2. APPLICATION TO MODIFY BENCHMARK PLAN, REPORT

17 ~~(a) On or before May 7, 2021, the Agency of Human Services, in~~
18 ~~consultation with the Department of Financial Regulation and the Green~~
19 ~~Mountain Care Board, shall apply to the Centers for Medicare and Medicaid~~
20 ~~Services to modify the essential health benefits in Vermont's benchmark plan~~

1 ~~to include coverage of hearing aids and related services at a minimum standard~~
2 ~~of medical necessity beginning in plan year 2023.~~

3 ~~(b) The Agency shall contract for actuarial services to the extent necessary~~
4 ~~to prepare the actuarial certification and report required as part of the~~
5 ~~application process.~~

6 ~~(c) On or before April 1, 2021, the Agency shall provide a draft of the~~
7 ~~completed application materials, including the actuarial certification and~~
8 ~~report, to the Medicaid and Exchange Advisory Committee and the Office of~~
9 ~~the Health Care Advocate and make them available on its website. The~~
10 ~~Agency shall accept public comments on the application materials, shall~~
11 ~~respond to all public comments, and shall incorporate the public comments~~
12 ~~into its final application materials when practicable.~~

13 ~~(d) The Agency shall provide periodic updates on the disposition of its~~
14 ~~application to the House Committee on Health Care, the Senate Committees on~~
15 ~~Health and Welfare and on Finance, the Medicaid and Exchange Advisory~~
16 ~~Committee, and the Office of the Health Care Advocate.~~

17 Sec. 3. AGENCY OF HUMAN SERVICES; FEDERAL APPROVAL

18 ~~The Agency of Human Services shall seek approval from the federal~~
19 ~~Centers for Medicare and Medicaid Services to provide coverage of hearing~~
20 ~~aids for individuals enrolled in Medicaid as set forth in Sec. 1 of this act.~~

1 Sec. 4. EFFECTIVE DATES

2 (a) Sec. 1 (8 V.S.A. § 40881) shall take effect on January 1, 2022 and shall
3 apply:

4 (1) to the State Employees Health Plan on and after January 1, 2022;

5 (2) to large group health insurance plans issued on and after January 1,
6 2022 on such date as a health insurer offers, issues, or renews the plan, but in
7 no event later than January 1, 2023; and

8 (3) to Medicaid upon approval by the Centers for Medicare and
9 Medicaid Services of Vermont's request to provide coverage of hearing aids or
10 on January 1, 2022, whichever occurs last.

11 (b) Secs. 2 (application to modify benchmark plan; report) and 3 (Agency
12 of Human Services; federal approval) and this section shall take effect on

13 passage.

Sec. 1. PURPOSE

(a) The General Assembly recognizes the range of negative health
outcomes that are associated with untreated hearing loss, including cognitive
decline, dementia, falls, social isolation, and depression. All Vermonters
should have access to hearing aids and related services, yet many health plans
do not cover them. Vermont Medicaid currently covers hearing aids, while
most health insurance plans offered in the commercial health insurance market
do not. Federal law prohibits or preempts the State from regulating the

benefits provided through plans covering more than half of the population of this State, including Medicare and self-funded employer plans. Medicare does not cover hearing aids and related services, and neither do most self-funded employer plans.

(b) In 2021 Acts and Resolves No. 74, Sec. E.227, the General Assembly directed the Department of Financial Regulation and other interested stakeholders to review Vermont's benchmark plan establishing the State's essential health benefits for qualified health plans offered through the Vermont Health Benefit Exchange and recommend whether to request federal approval to modify the benchmark plan to provide certain benefits, including hearing aids. On March 2, 2022, the Green Mountain Care Board voted to approve a recommendation from the Department of Vermont Health Access to add coverage to the benchmark plan for up to one hearing aid per ear every three years and an annual hearing exam. The Department of Vermont Health Access is pursuing a change to Vermont's benchmark plan with the federal government for coverage for hearing aids and hearing exams to begin in Vermont's individual and small group insurance markets in January 2024.

(c) The purpose of this bill is to ensure continued coverage of hearing aids and related services in Vermont Medicaid, affirm ongoing efforts to make hearing aids and related services part of Vermont's benchmark plan, and make hearing aids and related services more accessible to Vermont residents by

requiring coverage in large group health insurance plans, which comprise the remaining segment of the commercial health insurance market over which Vermont has regulatory authority and which do not currently offer these benefits.

~~Sec. 2. ESSENTIAL HEALTH BENEFITS; BENCHMARK PLAN;~~

~~HEARING AIDS; REPORT~~

~~On or before November 1, 2022, the Department of Vermont Health Access shall provide an update to the Health Reform Oversight Committee regarding the status of the Department's application to the Centers for Medicare and Medicaid Services to modify the essential health benefits in Vermont's benchmark plan to include coverage of hearing aids and related services beginning in plan year 2024.~~

Sec. 2. ESSENTIAL HEALTH BENEFITS; BENCHMARK PLAN;

HEARING AIDS; REPORT

On or before November 1, 2022, the Departments of Vermont Health Access and of Financial Regulation shall provide an update to the Health Reform Oversight Committee regarding the status of the State's application to the Center for Medicare and Medicaid Innovation within the Centers for Medicare and Medicaid Services to modify the essential health benefits in Vermont's benchmark plan to include coverage of hearing aids and related services beginning in plan year 2024.

Sec. 3. 33 V.S.A. § 1901k is added to read:

§ 1901k. MEDICAID COVERAGE FOR HEARING AIDS AND
AUDIOLOGY SERVICES

Vermont Medicaid shall provide coverage for medically necessary hearing aids and audiology services when delivered by a health care professional practicing within the scope of the professional's license, including audiologic examinations, hearing screenings, fitting of hearing aids, prescriptions for hearing aid batteries, and other services as defined by the ~~Department of Vermont Health Access~~ Agency of Human Services by rule.

Sec. 4. 8 V.S.A. § 4088l is added to read:

§ 4088l. COVERAGE FOR HEARING AIDS

(a) As used in this section:

(1) "Health insurance plan" means a group health insurance policy or health benefit plan offered by a health insurance company, nonprofit hospital or medical service corporation, or health maintenance organization, but does not include:

(A) a qualified health benefit plan or reflective health benefit plan offered in accordance with 33 V.S.A. chapter 18, subchapter 1;

(B) a health benefit plan offered by an intermunicipal insurance association to one or more entities providing educational services pursuant to 24 V.S.A. chapter 121, subchapter 6; or

(C) a policy or plan providing coverage for a specified disease or other limited benefit coverage.

(2) “Hearing aid” means any small, wearable electronic instrument or device designed and intended for the ear for the purpose of aiding or compensating for impaired human hearing and any related parts, attachments, or accessories, including earmolds and associated remote microphones that pair with hearing aids to improve word comprehension in difficult listening situations in live or telecommunication settings. The term does not include ~~cords~~, large-audience assisted listening devices, such as those designed for auditoriums, or stand-alone assisted listening devices that can function without a hearing aid.

(3) “Hearing aid professional services” means the practice of fitting, selecting, dispensing, selling, or servicing hearing aids, or a combination, including:

(A) evaluation for a hearing aid;

(B) fitting of a hearing aid;

(C) programming of a hearing aid;

(D) hearing aid repairs;

(E) follow-up adjustments, servicing, and maintenance of a hearing aid;

(F) ear mold impressions; and

(G) auditory rehabilitation and training.

(4) "Hearing care professional" means an audiologist or hearing aid dispenser licensed under 26 V.S.A. chapter 67, a physician licensed under 26 V.S.A. chapter 23 or 33, a physician assistant licensed under 26 V.S.A. chapter 31, or an advanced practice registered nurse licensed under 26 V.S.A. chapter 28, working within that professional's scope of practice.

~~(b) A health insurance plan shall cover the cost of a hearing aid for each ear and the associated hearing aid professional services when the hearing aid or aids are prescribed, fitted, and dispensed by a hearing care professional. The coverage shall include hearing aid batteries when prescribed by a hearing care professional.~~

~~(c)(1) The coverage provided by a health plan for hearing aids and associated services shall be limited only by medical necessity.~~

~~(2) A covered individual may select a hearing aid that exceeds the limits set forth in subdivision (1) of this subsection and pay the additional cost.~~

(b)(1) A health insurance plan shall cover the cost of a hearing aid for each ear and the associated hearing aid professional services when the hearing aid or aids are prescribed, fitted, and dispensed by a hearing care professional. The coverage shall include hearing aid batteries when prescribed by a hearing care professional.

(2) A health insurance plan may limit coverage to not more than one hearing aid per ear every three years, except that a plan shall cover the cost of one or more new hearing aids for a covered individual prior to the expiration of the three-year period based on a hearing care professional's determination that a new hearing aid for one or both ears is medically necessary.

(c)(1) Subject to the limitations set forth in subdivision (b)(2) of this section, the coverage provided by a health plan for hearing aids and associated services shall be limited only by medical necessity.

(2) A covered individual may select a hearing aid that exceeds the limits set forth in subdivision (1) of this subsection and pay the additional cost.

(d) The coverage required by this section shall not be subject to a deductible, co-payment, or coinsurance provision that is less favorable to a covered individual than the deductible, co-payment, or coinsurance provisions that apply generally to other nonprimary care items and services under the health insurance plan.

(e) A covered individual who has exhausted all applicable internal review procedures provided by the health insurance plan shall have the right to an independent external review as set forth in section 4089f of this title.

Sec. 5. EFFECTIVE DATES

(a) Sec. 4 (8 V.S.A. § 4088l) shall take effect on January 1, 2024 and shall apply to all health insurance plans issued on and after January 1, 2024 on

such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2025.

(b) The remaining sections shall take effect on passage.