



2009 ASSEMBLY BILL 16

February 3, 2009 - Introduced 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, cosponsored by Senators LASSA, HANSEN, LEHMAN, RISSER, TAYLOR, ERPENBACH, VINEHOUT, DARLING, S. FITZGERALD, COGGS and KAPANKE. Referred to Committee on Insurance.

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,

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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:

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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,

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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

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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. 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.

6 3. 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 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.

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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.

