
HOUSE BILL 1957

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Dellwo, Wolfe, R. Meyers, Pruitt, L. Johnson, J. Kohl, Conway and Karahalios; by request of Insurance Commissioner

Read first time 02/17/93. Referred to Committee on Health Care.

1 AN ACT Relating to the creation of the medical health coverage
2 benefit determination committee; adding a new section to chapter 48.02
3 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that the
6 right of people to obtain access to health care in all its facets is
7 impaired when insurance coverage is denied because the proposed
8 procedure is considered to be experimental, investigative, or involves
9 the use of new technology.

10 The legislature finds that denials may be appropriate in those
11 limited instances where the proposed procedure has not been shown to be
12 under continued scientific testing, to not have a demonstrable benefit
13 for a particular illness or disease, or has not been proven to be safe
14 or efficacious.

15 The legislature further finds that the lack of an impartial body to
16 assist those making these decisions is detrimental to the interest of
17 both the patient and the health coverage provider.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.02 RCW
2 to read as follows:

3 There is hereby created a committee to be known as the medical
4 health coverage benefit determination committee.

5 (1) Unless the context clearly requires otherwise, the following
6 definitions apply throughout this section.

7 (a) "Committee" means the medical health coverage benefit
8 determination committee created in this section.

9 (b) "Health care provider" means:

10 (i) A physician licensed under chapter 18.71 RCW or any other
11 licensed, certified, or registered health professional regulated under
12 chapter 18.130 RCW;

13 (ii) An employee or agent of a person described in (b)(i) of this
14 subsection, acting in the course and scope of his or her employment; or

15 (iii) An entity, facility, or institution, whether or not
16 incorporated, employing one or more persons described in (b)(i) of this
17 subsection, including, but not limited to, a hospital, clinic, or
18 nursing home; or an officer, director, employee, or agent thereof
19 acting in the course and scope of his or her employment.

20 (c) "Health coverage provider" means:

21 (i) Every insurer, as defined in RCW 48.01.050, having a
22 certificate or authority to transact disability insurance as defined in
23 RCW 48.11.030, in this state;

24 (ii) Every health care service contractor, as defined in RCW
25 48.44.010(3), registered to transact business in this state;

26 (iii) Every health maintenance organization, as defined in RCW
27 48.46.020(1), registered to transact business in this state;

28 (iv) The Washington basic health plan, as defined in RCW
29 70.47.020(1); or

30 (v) The Washington state health care authority, as defined in
31 chapter 41.05 RCW.

32 (d) "Patient" means an insured, subscriber, or enrolled participant
33 of a health coverage provider.

34 (2) The insurance commissioner shall appoint a medical health
35 coverage benefit determination committee composed of representatives of
36 the health services community having a broad perspective of the
37 relevant issues.

38 (a) Members of the committee shall be appointed by the insurance
39 commissioner. The committee shall be composed of:

1 (i) Two physicians, selected from a list of six names recommended
2 by the Washington medical association;

3 (ii) One representative of the University of Washington school of
4 medicine;

5 (iii) One representative of a medical research center;

6 (iv) The administrator of the Washington state health care
7 authority;

8 (v) The administrator of the Washington basic health plan;

9 (vi) The administrator of the Washington state health insurance
10 pool, also known as the "high risk health pool";

11 (vii) One representative of Washington hospitals;

12 (viii) Three representatives of health coverage providers, one each
13 representing an insurer, a health care service contractor, and a health
14 maintenance organization;

15 (ix) A medical ethicist; and

16 (x) Three consumer representatives.

17 (b) The insurance commissioner shall designate one member of the
18 committee to serve as chairperson.

19 (3) The committee shall meet upon the call of the insurance
20 commissioner, or upon request of either a patient or a health coverage
21 provider. The committee shall:

22 (a) Develop and approve criteria that will guide future actions of
23 the health care providers of this state in deciding whether a procedure
24 or drug is no longer experimental or investigative;

25 (b) Develop a process designed to consider actual or potential
26 specific denials of health coverage because the proposed medical
27 procedure is considered by the health coverage provider to be
28 experimental or investigative. In making such a determination the
29 committee shall:

30 (i) Take into account findings, studies, or research conducted at
31 qualified research centers in this country and abroad;

32 (ii) Consider whether the federal food and drug administration,
33 national institutes of health, including the national cancer institute,
34 or other similar research institutes are conducting or sponsoring
35 assessment procedures to determine the safety and efficacy of a drug or
36 procedure, or substantially similar drugs or procedures, or any part of
37 the drugs or procedures;

38 (iii) Consider whether treating physicians find the drug or
39 treatment efficacious or necessary for the health or survival of the

1 patient, or whether there is a potential benefit to the public as a
2 whole, as for example, where a disease is rare and treatment for it may
3 remain experimental for the foreseeable future; and

4 (iv) Consider other relevant information.

5 (c) Meet as frequently as necessary and shall promptly review
6 matters brought before it because time is of the essence;

7 (d) Make decisions by a simple majority of the members by a
8 preponderance of the evidence brought before it, and when necessary,
9 both a majority and minority report may be made to the insurance
10 commissioner; and

11 (e) Report to the insurance commissioner if a majority of the
12 committee finds that a health coverage provider acted in bad faith in
13 denying a treatment or drug because it is experimental or
14 investigative.

15 (4) Great weight should be afforded to the determinations made by
16 the committee.

17 (5) If the patient prevails and has incurred costs by submitting
18 the question of the denial of coverage for his or her medical procedure
19 or drug to the committee, the patient may petition the committee to
20 assess costs from the health coverage provider and the committee may
21 impose the costs if it determines that they are reasonable.

22 (6) The committee shall publish at least once a year, and the
23 insurance commissioner shall disseminate to the public and all health
24 care and health coverage providers, a summary of its review and the
25 decisions for each individual, drug, or procedure considered. The
26 committee shall prepare a report each time there is a consensus of the
27 committee that a drug or procedure is no longer experimental or
28 investigative.

29 (7) The members of the committee shall be immune from liability in
30 a civil action or suit arising from their performance, unless actual
31 malice, fraud, or bad faith is shown.

32 (8) Members of the committee may be removed by the insurance
33 commissioner for a cause that unreasonably interferes with the proper
34 discharge of the responsibilities of the committee or a member thereof.
35 The insurance commissioner shall fill a vacancy by appointing a new
36 committee member within ninety days of the occurrence of the vacancy.

37 (9) Appointed members of the committee shall be reimbursed for
38 their travel expenses incurred in the actual performance of their
39 duties in accordance with RCW 43.03.050 and 43.03.060.

1 (10) The insurance commissioner shall adopt rules, in consultation
2 with the committee, as are necessary to implement this section.
3 (11) This section shall expire July 1, 1996.

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