

FINAL BILL REPORT

ESHB 1222

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Synopsis as Enacted

Brief Description: Requiring coverage for hearing instruments.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Orwall, Simmons, Reeves, Reed, Leavitt, Kloba, Farivar, Doglio, Morgan, Slatter, Ramel, Goodman, Callan, Fosse, Pollet, Lekanoff and Macri).

House Committee on Health Care & Wellness
House Committee on Appropriations
Senate Committee on Health & Long Term Care

Background:

Hearing Instruments.

A "hearing instrument" is defined as any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices. The fitting and dispensing of hearing instruments must be performed by a licensed hearing aid specialist, a licensed audiologist, or an audiologist holding an interim permit from the Department of Health.

A hearing aid specialist or audiologist may not sell a hearing instrument unless the prospective patient or client has presented a written statement signed by a licensed physician that states that the patient's or client's hearing loss has been medically evaluated and the patient or client may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months. A hearing aid specialist or audiologist may allow the prospective patient or client 18 years of age or older to waive the medical evaluation requirement, if the hearing aid specialist or audiologist:

- informs the prospective patient or client that the exercise of the waiver is not in the patient's or client's best health interest;
- does not in any way actively encourage the prospective patient or client to waive the

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- medical evaluation;
- offers the prospective patient or client the opportunity to sign the following statement: "I have been advised the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument;" and
- provides the prospective patient or client with a copy of the signed waiver statement.

Hearing Instrument Coverage in Washington.

Beginning January 1, 2019, health plans offered to public employees and Medicaid enrollees must include coverage for hearing instruments. For public employees, coverage must include a new hearing instrument every five years and services and supplies such as the initial assessment, fitting, adjustment, and auditory training. For Medicaid enrollees, coverage must include, when medically necessary, a new hearing instrument every five years, a new hearing instrument when alterations to the existing hearing instrument cannot meet the needs of the patient, and services and supplies such as the initial assessment, fitting, adjustment, and auditory training. The hearing instrument must be recommended and dispensed by a licensed audiologist, hearing aid specialist, or physician or osteopathic physician specializing in otolaryngology.

Over-the-Counter Hearing Instruments.

On October 17, 2022, federal Food and Drug Administration rules went into effect authorizing the use of a new category of hearing aid, over-the-counter (OTC) hearing instruments, which consumers may purchase directly from stores or online retailers without obtaining a medical exam or requiring a fitting by an audiologist or hearing aid specialist. The OTC hearing instruments are available to adults with perceived mild to moderate hearing impairment.

Summary:

A health carrier offering a nongrandfathered large group health plan and health plans offered to public employees and their covered dependents issued or renewed on or after January 1, 2024, must include coverage for hearing instruments, except for OTC hearing instruments, including bone conduction hearing devices. The coverage must include the hearing instrument, the initial assessment, fitting, adjustment, auditory training, and ear molds as necessary to maintain optimal fit.

A health carrier and health plan offered to public employees must provide coverage for hearing instruments at no less than \$3,000 per ear with hearing loss every 36 months. This benefit is not subject to the enrollee's deductible, unless the plan is offered as a qualifying health plan for a health savings account in which case the health carrier or health plan may only establish the health plan's deductible at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the health savings account under federal law and regulations.

Coverage for minors under 18 years of age is only available after the minor has received medical clearance within the past six months from an otolaryngologist for an initial evaluation of hearing loss or from a licensed physician which indicates there has not been a substantial change in clinical status since the initial evaluation by an otolaryngologist.

The requirement for health plans offered to public employees and their covered dependents to include coverage for a new hearing instrument every five years expires December 31, 2023.

For purposes of these requirements, an OTC hearing instrument is defined as an air-conduction hearing aid that does not require implantation or other surgical intervention, and is intended for use by a person age 18 or older to compensate for perceived mild to moderate hearing impairment. The device allows the user to control the hearing aid and customize it to the user's hearing needs and may use wireless technology or may include tests for self-assessment of hearing loss. The device is available OTC, without prescription, involvement, or intervention of a licensed person, to consumers.

Votes on Final Passage:

House	89	8	
Senate	48	0	(Senate amended)
House	88	8	(House concurred)

Effective: July 23, 2023