

117TH CONGRESS
1ST SESSION

S. 41

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Patient Protection and Affordable Care Act to require coverage of hearing devices and systems in certain private health insurance plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2021

Mrs. CAPITO (for herself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Patient Protection and Affordable Care Act to require coverage of hearing devices and systems in certain private health insurance plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Ally’s Act”.

1 **SEC. 2. COVERAGE OF HEARING DEVICES AND SYSTEMS IN**
 2 **CERTAIN PRIVATE HEALTH INSURANCE**
 3 **PLANS.**

4 (a) PHSA.—Part A of the Public Health Service Act
 5 (42 U.S.C. 300gg et seq.) is amended by inserting after
 6 section 2713 the following new section:

7 **“SEC. 2713A. COVERAGE OF HEARING DEVICES AND SYS-**
 8 **TEMS.**

9 “(a) IN GENERAL.—Beginning with plan years begin-
 10 ning on or after January 1, 2022, a group health plan
 11 and a health insurance issuer offering group or individual
 12 health insurance coverage shall, at a minimum provide
 13 coverage for and may impose cost-sharing requirements
 14 in accordance with subsection (b) for an individual that
 15 a physician (as defined in section 1861(r) of the Social
 16 Security Act) or qualified audiologist (as defined in section
 17 1861(ll)(4)(B) of such Act) determines meets an indica-
 18 tion (including unilateral or bilateral hearing loss) for an
 19 auditory device as approved by the Food and Drug Admin-
 20 istration for—

21 “(1) auditory implant devices (including audi-
 22 tory osseointegrated (bone conduction) implants and
 23 cochlear implants) and external sound processors;

24 “(2) the maintenance of auditory implant de-
 25 vices and external sound processors described in
 26 paragraph (1);

1 “(3) every 5 years, the upgrade (or replacement
2 if an upgrade is not available) of auditory implant
3 devices and external sound processors described in
4 paragraph (1);

5 “(4) adhesive adapters and softband headbands;

6 “(5) the repair of auditory implant devices and
7 external sound processors described in paragraph
8 (1);

9 “(6) a comprehensive hearing assessment;

10 “(7) a preoperative medical assessment;

11 “(8) surgery (as appropriate);

12 “(9) postoperative medical appointments for
13 purposes of ensuring appropriate recovery from sur-
14 gery;

15 “(10) postoperative audiological appointments
16 for activation and fitting of the implant device and
17 external sound processor; and

18 “(11) aural rehabilitation and treatment serv-
19 ices (as appropriate).

20 “(b) COST-SHARING.—Beginning with plan years be-
21 ginning on or after January 1, 2022, the cost-sharing in-
22 curred under a plan or coverage described in subsection
23 (a)—

24 “(1) for an auditory implant device and exter-
25 nal sound processors under this section, shall not ex-

1 ceed a dollar amount that is the highest cost-sharing
 2 requirement for the amount of the charges imposed
 3 for such device that is provided by a physician or
 4 qualified audiologist that has a contractual relation-
 5 ship with such plan or coverage for the providing of
 6 such device;

7 “(2) for an item or service under this section,
 8 shall not exceed a dollar amount that is imposed for
 9 similar items and services under that plan that are
 10 provided by a physician or qualified audiologist; and

11 “(3) that has a contractual relationship with
 12 such plan or coverage for the providing of such
 13 items and services.”.

14 (b) ERISA.—

15 (1) IN GENERAL.—Subpart B of part 7 of sub-
 16 title B of title I of the Employee Retirement Income
 17 Security Act of 1974 (29 U.S.C. 1185 et seq.) by
 18 adding at the end the following new section:

19 **“SEC. 726. COVERAGE OF HEARING DEVICES AND SYSTEMS.**

20 “(a) IN GENERAL.—Beginning with plan years begin-
 21 ning on or after January 1, 2022, a group health plan
 22 and a health insurance issuer offering group health insur-
 23 ance coverage shall, at a minimum provide coverage for
 24 and may impose cost-sharing requirements in accordance
 25 with subsection (b) for an individual that a physician (as

1 defined in section 1861(r) of the Social Security Act) or
2 qualified audiologist (as defined in section 1861(ll)(4)(B)
3 of such Act) determines meets an indication (including
4 unilateral or bilateral hearing loss) for an auditory device
5 as approved by the Food and Drug Administration for—

6 “(1) auditory implant devices (including audi-
7 tory osseointegrated (bone conduction) implants and
8 cochlear implants) and external sound processors;

9 “(2) the maintenance of auditory implant de-
10 vices and external sound processors described in
11 paragraph (1);

12 “(3) every 5 years, the upgrade (or replacement
13 if an upgrade is not available) of auditory implant
14 devices and external sound processors described in
15 paragraph (1);

16 “(4) adhesive adapters and softband headbands;

17 “(5) the repair of auditory implant devices and
18 external sound processors described in paragraph
19 (1);

20 “(6) a comprehensive hearing assessment;

21 “(7) a preoperative medical assessment;

22 “(8) surgery (as appropriate);

23 “(9) postoperative medical appointments for
24 purposes of ensuring appropriate recovery from sur-
25 gery;

1 “(10) postoperative audiological appointments
2 for activation and fitting of the implant device and
3 external sound processor; and

4 “(11) aural rehabilitation and treatment serv-
5 ices (as appropriate).

6 “(b) COST-SHARING.—Beginning with plan years be-
7 ginning on or after January 1, 2022, the cost-sharing in-
8 curred under a plan or coverage described in subsection
9 (a)—

10 “(1) for an auditory implant device and exter-
11 nal sound processors under this section, shall not ex-
12 ceed a dollar amount that is the highest cost-sharing
13 requirement for the amount of the charges imposed
14 for such device that is provided by a physician or
15 qualified audiologist that has a contractual relation-
16 ship with such plan or coverage for the providing of
17 such device;

18 “(2) for an item or service under this section,
19 shall not exceed a dollar amount that is imposed for
20 similar items and services under that plan that are
21 provided by a physician or qualified audiologist; and

22 “(3) that has a contractual relationship with
23 such plan or coverage for the providing of such
24 items and services.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
 2 tents in section 1 of the Employee Retirement In-
 3 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
 4 is amended by inserting after the item relating to
 5 section 725 the following new item:

“Sec. 726. Coverage of hearing devices and systems.”.

6 (c) IRC.—

7 (1) IN GENERAL.—Subchapter B of chapter
 8 100 of the Internal Revenue Code of 1986, is
 9 amended by adding at the end the following new sec-
 10 tion:

11 **“SEC. 9826. COVERAGE OF HEARING DEVICES AND SYS-**
 12 **TEMS.**

13 “(a) IN GENERAL.—Beginning with plan years begin-
 14 ning on or after January 1, 2022, a group health plan
 15 shall, at a minimum provide coverage for and may impose
 16 cost-sharing requirements in accordance with subsection
 17 (b) for an individual that a physician (as defined in section
 18 1861(r) of the Social Security Act) or qualified audiologist
 19 (as defined in section 1861(ll)(4)(B) of such Act) deter-
 20 mines meets an indication (including unilateral or bilateral
 21 hearing loss) for an auditory device as approved by the
 22 Food and Drug Administration for—

23 “(1) auditory implant devices (including audi-
 24 tory osseointegrated (bone conduction) implants and
 25 cochlear implants) and external sound processors;

1 “(2) the maintenance of auditory implant de-
2 vices and external sound processors described in
3 paragraph (1);

4 “(3) every 5 years, the upgrade (or replacement
5 if an upgrade is not available) of auditory implant
6 devices and external sound processors described in
7 paragraph (1);

8 “(4) adhesive adapters and softband headbands;

9 “(5) the repair of auditory implant devices and
10 external sound processors described in paragraph
11 (1);

12 “(6) a comprehensive hearing assessment;

13 “(7) a preoperative medical assessment;

14 “(8) surgery (as appropriate);

15 “(9) postoperative medical appointments for
16 purposes of ensuring appropriate recovery from sur-
17 gery;

18 “(10) postoperative audiological appointments
19 for activation and fitting of the implant device and
20 external sound processor; and

21 “(11) aural rehabilitation and treatment serv-
22 ices (as appropriate).

23 “(b) COST-SHARING.—Beginning with plan years be-
24 ginning on or after January 1, 2022, the cost-sharing in-
25 curred under a plan described in subsection (a)—

1 “(1) for an auditory implant device and exter-
2 nal sound processors under this section, shall not ex-
3 ceed a dollar amount that is the highest cost-sharing
4 requirement for the amount of the charges imposed
5 for such device that is provided by a physician or
6 qualified audiologist that has a contractual relation-
7 ship with such plan for the providing of such device;

8 “(2) for an item or service under this section,
9 shall not exceed a dollar amount that is imposed for
10 similar items and services under that plan that are
11 provided by a physician or qualified audiologist; and

12 “(3) that has a contractual relationship with
13 such plan for the providing of such items and serv-
14 ices.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions for subchapter B of chapter 100 of the Inter-
17 nal Revenue Code of 1986 is amended by inserting
18 after the item relating to section 9825 the following
19 new item:

“Sec. 9826. Coverage of hearing devices and systems.”.

20 (d) APPLICATION TO GRANDFATHERED HEALTH
21 PLANS.—Section 1251(a)(4)(A) of the Patient Protection
22 and Affordable Care Act (42 U.S.C. 18011(a)(4)(A)) is
23 amended—

1 (1) by striking “title” and inserting “title, or as
2 added after the date of the enactment of this Act”;
3 and

4 (2) by adding at the end the following new
5 clause:

6 “(v) Section 2713A (relating to hear-
7 ing devices and systems).”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply with respect to plan
10 years beginning on or after January 1, 2022.

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