



S.B. 162

124th General Assembly
(As Introduced)

Sens. Hagan, Ryan, Fingerhut, Brady

BILL SUMMARY

- Requires certain health care policies, contracts, agreements, and plans to provide benefits for the surgical treatment of morbid obesity.
- Requires, subject to federal approval, that the Medicaid program include coverage for surgical treatment of morbid obesity for certain individuals.

CONTENT AND OPERATION

Health care benefits for morbid obesity

(secs. 1751.69, 3923.81, and 3923.82; Section 2)

The bill requires certain health care coverage to provide benefits for expenses of the surgical treatment of morbid obesity, including examinations and laboratory tests performed in accordance with the guidelines of the National Institutes of Health.¹ To be eligible for coverage, an insured individual must meet one of the following criteria:

(1) Have a body mass index equal to or greater than 40 kilograms per meter squared;

(2) Have a body mass index equal to or greater than 35 kilograms per meter squared, with comorbidities or coexisting medical conditions, such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes;

¹ "Morbid obesity" is obesity that has progressed to such a state that it impairs the body's normal physiologic functions, such as breathing and blood pressure.
<http://www.medterms.com>, visited 1-7-01.

(3) Meet the guidelines for the surgical treatment of morbid obesity as established by the National Institutes of Health.²

The bill's health care coverage requirements apply to all of the following:

(1) Every individual or group health insuring corporation policy, contract, or agreement providing basic health care services that is delivered, issued for delivery, or renewed on or after the bill's effective date;³

(2) Every individual or group sickness and accident insurance policy delivered, issued for delivery, renewed, or used in Ohio on or after the bill's effective date, other than such a policy that provides coverage for specific diseases or accidents only or a hospital indemnity, Medicare supplement, Medicare, tricare, long-term care, disability income, one-time limited duration policy of not longer than six months, or other policy that offers only supplemental benefits;

(3) Every public employees benefit plan that is established or modified in Ohio on or after the bill's effective date.

The benefits for expenses of the surgical treatment of morbid obesity must be no less extensive than those provided for any other medically necessary surgical procedure under the policy, contract, agreement, or plan. They must also be subject to the same terms and conditions. In the case of coverage by a health insuring corporation or public employee benefit plan, this includes copayment charges. It includes copayments and deductible amounts in the case of sickness and accident insurance policies.

Exemption from H.B. 478 requirements

The benefits provided for in this bill may be considered a coverage mandate (see **COMMENT**). Am. Sub. H.B. 478 of the 119th General Assembly provides that no mandated health benefits legislation enacted on or after January 14, 1993,

² *The National Institutes of Health (NIH) defines normal weight, overweight, and obesity according to the body mass index rather than the traditional height/weight charts. The body mass index relates body weight to height. The body mass index is calculated by dividing an individual's weight in kilograms (kg) by the individual's height in meters (m) squared. Since the body mass index describes the body weight relative to height, it correlates strongly in adults with the total body fat content. Overweight is a body mass index of 27.3 % or more for women and 27.8 % or more for men, while obesity is a body mass index of 30 and above, according to the NIH.*

³ *"Basic health care services" includes such services as physician's and hospital services, laboratory and radiologic services, and preventive health care services.*

can apply to any health benefits arrangement until the Superintendent of Insurance holds a public hearing and determines that the provision can be applied fully and equally in all respects to (1) employee benefit plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) and (2) employee benefit plans established or modified by the state or its political subdivisions.⁴ (Sec. 3901.71, not in the bill.) The bill includes provisions exempting its health care coverage requirements from this restriction.

Coverage under Medicaid

(sec. 5111.025; Section 2)

The bill requires, subject to federal approval of the use of federal funds, that Ohio's Medicaid program include coverage for the expenses of surgical treatment of morbid obesity. To be eligible a person must be a Medicaid recipient and meet the requirements described above for coverage under the bill from a health insuring corporation, sickness and accident insurance policy, or public employee benefit plan.

The benefits provided a Medicaid recipient may be no less extensive than those provided under Medicaid for any other medically necessary surgical procedure and be subject to the same terms and conditions. The bill applies only to Medicaid services provided after its effective date.

COMMENT

Actuarial review

This bill may contain a "mandated benefit." Under current law, the chairperson of a standing committee of either house of the General Assembly may, at any time, request that the Director of the Legislative Service Commission review any bill assigned to the chairperson's committee to determine whether the bill includes a mandated benefit. If the Director determines that the bill includes a mandated benefit, the presiding officer of the house that is considering the bill may have the Director arrange for the performance of an independent healthcare actuarial review of the mandated benefit. The Director must submit the findings of the review to the chairperson of the committee to which the bill is assigned and

⁴ *ERISA is a comprehensive federal statute governing the administration of employee benefit plans. ERISA generally precludes state regulation of benefits offered by private employers that self-insure their benefit programs. Larger employers frequently choose to establish their own health insurance plans for their employees in lieu of purchasing coverage from an insurer or health insuring corporation.*

to the ranking minority member of that committee no later than 60 days after receiving the presiding officer's request. (Secs. 103.145 and 103.146, not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-20-01	p. 898

s0162-i.124/kl

