

# Enrolled House Bill 2994

Sponsored by Representatives PHAM H, REYNOLDS, BYNUM, CONRAD, DIEHL, JAVADI, MORGAN; Representatives BOWMAN, EVANS, KROPF, LEWIS, NELSON, TRAN, WALTERS, Senators CAMPOS, PATTERSON (at the request of Pacific Northwest Chapter of AG Bell) (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to hearing; creating new provisions; and amending ORS 243.144, 243.877, 743A.140 and 743A.141.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2023 Act is added to and made a part of ORS chapter 414.

**SECTION 2.** Notwithstanding ORS 414.065 and 414.690, a coordinated care organization and the Oregon Health Authority shall provide to medical assistance recipients who are 18 years of age or younger the devices and services described in ORS 743A.140 and 743A.141.

**SECTION 3.** ORS 743A.140 is amended to read:

743A.140. (1) A health benefit plan, as defined in ORS 743B.005, shall reimburse the cost of:

- (a) Bilateral cochlear implants if medically appropriate for the treatment of hearing loss; and
- [(b) Programming and reprogramming cochlear implants.]

**(b) The fitting, programming and reprogramming of bilateral or unilateral cochlear implants or other assistive listening devices performed by licensed audiologists.**

(2) For purposes of ORS 746.230, a reasonable investigation of a claim for bilateral cochlear implants must include a request to the treating surgeon for a written recommendation based on peer-reviewed medical literature and for the medical findings that support the recommendation.

(3) A health benefit plan shall reimburse the cost of repair and replacement parts for a cochlear implant if the repair or parts are not covered by a warranty and are necessary for the device to be functional for the user.

**(4) A health benefit plan shall reimburse the costs described in this section when prescribed by a licensed health professional even if over-the-counter items and services are available without a prescription.**

**(5) An adverse determination on a claim for coverage under this section must include a prominent notice to the enrollee of the enrollee's rights to file grievances and request appeals and reviews under ORS 743B.250 and must provide a toll-free telephone number or chat line for enrollees to seek assistance in contesting the denial of or limitation on coverage.**

**(6) Coverage under this section may not be subject to a deductible, except as provided in ORS 742.008.**

[(4)] (7) The provisions of this section are exempt from ORS 743A.001.

**SECTION 4.** ORS 743A.141 is amended to read:

743A.141. (1) As used in this section:

(a) **“Assistive listening device” means devices used with or without hearing aids or cochlear implants to provide access to sound or improve the ability of a user with hearing loss to hear in various listening situations, such as being located a distance from a speaker, in an environment with competing background noise or in a room with poor acoustics or reverberation.**

[(a)] (b) **“Hearing aid” means any nondisposable, wearable instrument or device designed to aid or compensate for impaired human hearing and any necessary ear mold, part, attachments or accessory for the instrument or device, except batteries and cords.**

[(b)] **“Hearing assistive technology systems” means devices used with or without hearing aids or cochlear implants to improve the ability of a user with hearing loss to hear in various listening situations, such as being located a distance from a speaker, in an environment with competing background noise or in a room with poor acoustics or reverberation.**

(2) A health benefit plan, as defined in ORS 743B.005, shall provide payment, coverage or reimbursement for:

(a) One hearing aid per hearing impaired ear if:

(A) Prescribed, fitted and dispensed by a licensed audiologist with the approval of a licensed physician; and

(B) Medically necessary for the treatment of hearing loss in an enrollee in the plan who is:

(i) 18 years of age or younger; or

(ii) 19 to 25 years of age and enrolled in a secondary school or an accredited educational institution.

(b) Ear molds and replacement ear molds:

(A) [Up to] **As medically necessary and at least** four times per plan year for enrollees who are younger than eight years of age; and

(B) **As medically necessary and** at least once per year for enrollees who are:

(i) Eight to 18 years of age; or

(ii) 19 to 25 years of age and enrolled in a secondary school or an accredited educational institution.

(c) One box of replacement batteries per year for each hearing aid.

(d) Necessary diagnostic and treatment services at least twice per year for enrollees who are younger than four years of age and at least once per year for enrollees who are four years of age or older, including:

(A) Hearing tests appropriate for an enrollee’s age or developmental need;

(B) Hearing aid checks **and conformity evaluations**; and

(C) Aided testing.

(e) Bone conduction sound processors, if necessary for appropriate amplification of the hearing loss.

(f) [Hearing assistive technology systems] **Assistive listening devices** for an enrollee who is younger than 19 years of age, if necessary [for] **to provide access to sound and provide** appropriate amplification of the hearing loss.

(g) **Other components required for a hearing device to function properly and effectively, including but not limited to:**

(A) **Bone-conducting sound processor headbands; and**

(B) **Prosthetic device parts.**

(h) **The cost of repair or replacement parts for a hearing aid or other assistive listening device if the repair or parts are not covered by a warranty and are necessary for the device to be functional for the user, regardless of the age of the user.**

(3) An insurer may not impose any financial or contractual penalty upon an audiologist if an enrollee elects to purchase a hearing aid or other device priced higher than the benefit amount by paying the difference between the benefit amount and the price of the hearing aid or other device.

(4) A health benefit plan shall provide the benefits described in subsection (2)(a), (e) and (f) of this section:

(a) Every 36 months; or  
(b) For hearing aids, more frequently than every 36 months if modifications to an existing hearing aid will not meet the needs of an enrollee who is:

(A) Under 19 years of age; or

(B) 19 to 25 years of age and enrolled in a secondary school or an accredited educational institution.

(5) An insurer must contract with pediatric audiologists in sufficient numbers and geographic locations in this state to comply with ORS 743B.202 and 743B.505.

(6) Insurance producers shall ensure that enrollees have access to navigators or other assisters to facilitate the diagnosis of hearing loss and needed amplification and ensure that technologies are available to treat hearing loss in enrollees who are 19 years of age or younger. Upon receiving a claim for reimbursement for the diagnosis of hearing loss, an insurer shall provide notice of the coverage limits to the enrollee or to the parent or legal guardian of the enrollee. With respect to enrollees with hearing loss who are younger than 19 years of age, an insurer shall provide educational materials to the parent or legal guardian of the enrollee and shall have a process in place to ensure that appropriate technologies are available.

(7) The payment, coverage or reimbursement required under this section may be subject to provisions of the health benefit plan that apply to other durable medical equipment benefits covered by the plan, including but not limited to provisions relating to *[deductibles,]* coinsurance and prior authorization, **but may not be subject to deductibles except as provided in ORS 742.008.**

**(8) A health benefit plan shall reimburse the costs described in this section when prescribed by a licensed health professional even if over-the-counter items and services are available without a prescription.**

*[(8)]* (9) This section is exempt from ORS 743A.001.

**SECTION 5.** ORS 243.144, as amended by section 2, chapter 72, Oregon Laws 2022, is amended to read:

243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;

**(2) ORS 743A.140;**

**(3) ORS 743A.141;**

*[(2)]* (4) ORS 743B.256;

**(5) ORS 743B.287 (4);**

*[(3)]* (6) ORS 743B.420;

*[(4)]* (7) ORS 743B.423;

*[(5)]* (8) ORS 743B.601; **and**

*[(6)]* (9) ORS 743B.810; *and*

*[(7) ORS 743B.287 (4)].*

**SECTION 6.** ORS 243.877, as amended by section 3, chapter 72, Oregon Laws 2022, is amended to read:

243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;

**(2) ORS 743A.140;**

**(3) ORS 743A.141;**

*[(2)]* (4) ORS 743B.256;

**(5) ORS 743B.287 (4);**

*[(3)]* (6) ORS 743B.420;

*[(4)]* (7) ORS 743B.423;

*[(5)]* (8) ORS 743B.601; **and**

[(6)] (9) ORS 743B.810[; and]  
[(7) ORS 743B.287 (4)].

**SECTION 7.** The amendments to ORS 243.144, 243.877, 743A.140 and 743A.141 by sections 3 to 6 of this 2023 Act apply to policies and certificates of insurance issued, renewed or extended on or after the effective date of this 2023 Act.

**SECTION 8.** Notwithstanding any other law limiting expenditures, the amount of \$517,750 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Health Authority for the Oregon Educators Benefit Board to carry out section 6 of this 2023 Act.

**Passed by House June 8, 2023**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate June 23, 2023**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

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Secretary of State