

## **MDCR Bill Analysis HB 4944 & 4963**

**Date:** October 11, 2023

**Bill Number:** HB [4944](#), [4963](#)

**Sponsors:** Representatives [Dale Zorn](#) (district [34](#))

[Samantha Steckloff](#), [Veronica Paiz](#), [Jason Morgan](#), [Kelly Breen](#), [Noah Arbit](#), [Carrie Rheingans](#), [John Fitzgerald](#), [Curtis VanderWall](#), [Erin Byrnes](#), [Emily Dievendorf](#), [Lori Stone](#), [Stephanie A. Young](#)

**Bipartisan Support:** N/A

**Committee:** [INSURANCE & FINANCIAL SERVICES](#)

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**Date of Analysis/update:** October 12, 2023

### **Intent of Legislation**

The intent of House Bill 4944 is to mandate health insurance coverage for hearing aids, specifically for qualified enrollees who are under the age of 19 and have been referred by a physician for evaluation, selection, and fitting by an audiologist.

The intent of House Bill 4963 is to require health insurers in the state of Michigan to provide coverage for hearing-related services and devices for qualified enrollees who are less than 19 years of age. The bill aims to ensure that these individuals have access to necessary audiological examinations, hearing aids, speech language habilitation, and related services.

House Bills 4944 and 4963 are tie-barred.

### **Summary (updated to reflect current version):**

House Bill 4944 seeks to amend the existing 1956 PA 218, known as "The Insurance Code of 1956," by adding section 3406z. This amendment requires insurers delivering, issuing, or renewing health insurance policies in Michigan to provide coverage for hearing aids. The coverage applies to qualified enrollees and mandates that the insurer covers the cost of hearing aids, selected by an audiologist after evaluation, up to a maximum of \$3,000 per hearing aid every 36 months.

House Bill 4963 seeks to amend the Insurance Code of 1956 in Michigan by adding section 3406aa. The legislation would require insurers delivering, issuing for delivery, or renewing health insurance policies in the state to provide coverage for hearing-related services and devices for qualified enrollees who meet specific criteria.

### **Provisions:**

Provisions of HB 4944 are the following:

1. **Mandated Coverage:** Insurers delivering or renewing health insurance policies in Michigan must provide coverage for hearing aids for qualified enrollees.
2. **Coverage Limit:** The maximum coverage per hearing aid is set at \$3,000 every 36 months.
3. **Excess Coverage:** Qualified enrollees have the option to purchase hearing aids exceeding the coverage limit, but they would be responsible for the difference in cost.
4. **Policy Deductibles and Coinsurance:** Insurers may subject coverage to the deductibles and coinsurance requirements of the health insurance policy.

Provisions of HB 4963 are the following:

1. The legislation mandates that insurers provide coverage for hearing-related services and devices for qualified enrollees, subject to deductibles and coinsurance as per the health insurance policy.
2. Key definitions within the legislation include:
  - a. **Audiologist:** Defined as per section 16801 of the public health code.
  - b. **Hearing aid:** Defined as a wearable instrument or device that aids or compensates impaired human hearing.
  - c. **Hearing-related services and devices:** Includes audiological examinations, hearing aid evaluations, programming, servicing, repairs, auditory training, and more.
  - d. **Physician:** Refers to licensed physicians practicing medicine or osteopathic medicine.
3. To qualify as an enrollee eligible for coverage, a physician must medically evaluate the enrollee, determine them as a candidate for a hearing aid, and refer them to an audiologist for evaluation, selection, and fitting. This provision applies specifically to enrollees under 19 years of age.

### **Lead Agency Position**

- The Lead Agency Position MDCR is: Support

### **Fiscal/Economic Impact**

The fiscal impact of House Bill 4944 and 4963 on the state of Michigan would depend on various factors, including the number of qualified enrollees, the frequency of hearing aid usage, and the average cost of hearing aids. It may result in increased costs for insurers, which could potentially be passed on to policyholders through premiums. However, it may also lead to improved access to hearing aids for qualified enrollees, which can positively impact their quality of life.

### **Summary of Arguments**

#### **Pros of Bill 4944:**

HB 4944 Provides qualified enrollees under the age of 19 with insurance coverage for hearing aids, ensuring improved accessibility and affordability. This ultimately ensures that individuals with hearing loss can receive appropriate hearing aids, potentially leading to better educational, social, and overall health outcomes.

#### **Cons of Bill 4944:**

This legislation may lead to increased costs for insurers, which could potentially result in higher premiums for policyholders. Furthermore, the coverage limit of \$3,000 every 36 months may not fully cover the cost of advanced or specialized hearing aids, limiting options for qualified enrollees.

#### Pros of Bill 4963:

Ensures that qualified enrollees under the age of 19 have access to necessary audiological examinations, hearing aids, and related services. This will improve the quality of life for individuals with hearing loss by facilitating early intervention and support. Additionally, this legislation aligns Michigan with similar legislation in other states that provide coverage for hearing-related services and devices.

#### Cons of Bill 4963:

HB 4963 may result in potential increase in health insurance premiums due to the added coverage requirements. There will also be an increased administrative burden on insurance companies to comply with the new regulations. Additionally, there is a possibility of increased utilization and associated costs, which could impact the overall stability of the health insurance market.

#### Case Law:

These cases highlight the evolving interpretations of disability rights laws and the efforts to ensure equal treatment and access for individuals with disabilities in various aspects of their lives, including education, employment, and public service.

[Olmstead v. L.C. \(1999\)](#): This case involved two women with disabilities who were placed in a state-run institution for individuals with mental disabilities despite their desire to live in community-based settings. The Supreme Court held that unjustified segregation of individuals with disabilities is a violation of their rights under the Americans with Disabilities Act (ADA); Entities must provide community-based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

[Lane v. Tennessee \(2004\)](#): This case involved two paralyzed individuals who were unable to access a state courthouse due to the lack of an accessible entrance. The Supreme Court held that Title II of the ADA applies not only to access to public services but also to access to the justice system, stating that the courthouse must provide reasonable modifications to accommodate individuals with disabilities.

[Fisher v. University of Texas at Austin \(2013 and 2016\)](#): Although not specifically a disability rights case, this Supreme Court case had implications for disability rights in the context of higher education. The University of Texas at Austin's admissions policy was challenged as unconstitutional, including its consideration of race in the admissions process. The Supreme Court upheld the university's affirmative action policy, acknowledging that diversity in education benefits society as a whole, including students with disabilities.

[Sutton v. United Airlines, Inc. \(1999\)](#): The Supreme Court addressed the definition of disability under the ADA, ruling that mitigating measures, such as medication or prosthetics, must be considered when determining disability status. This case set a higher threshold for establishing disability and limited the reach of ADA protection for some individuals.

[St. Vrain Valley School District](#): On July 20, 2022, the U.S. Attorney's Office for the District of Colorado entered into a settlement agreement with the St. Vrain Valley School District pursuant to Title II of the ADA. The settlement agreement resolved a complaint that the school district failed to provide appropriate auxiliary aids and services for meetings between school personnel and a deaf parent of a student in the school district that were initiated by the school district. The agreement requires the school district to comply with the ADA's effective communication requirements, to have in place a system for providing qualified interpreters, training, reporting, and the payment of compensatory damages.

[Board of Trustees of the University of Alabama v. Garrett \(2001\)](#): In this case, two state employees with disabilities sued their employers, alleging discrimination in violation of Title I of the ADA. The Supreme Court ruled that state employees cannot sue their employers for money damages under Title I of the ADA, stating that Congress did not have adequate evidence of widespread discrimination by states to justify such lawsuits. Suits in federal court by state employees to recover money damages by reason of the state's failure to comply with Title I of the ADA are barred by the Eleventh Amendment. The Chief Justice wrote for the majority that:

"In order to authorize private individuals to recover money damages against the States, there must be a pattern of discrimination by the States which violates the Fourteenth Amendment, and the remedy imposed by Congress must be congruent and proportional to the targeted violation."

### **Bipartisan support**

N/A

### **Stakeholder Positions**

The [U.S. House of Representatives](#) passed the Build Back Better Act of 2021 ([H.R. 5376](#)) which includes the expansion of Medicare to cover hearing aids and services.

Currently, about 23 states mandate health insurance companies provide full or partial hearing aid coverage for children. Five states (Arkansas, Connecticut, Illinois, New Hampshire, Rhode Island) also extend those mandates to adults. [State Insurance Mandates for Hearing Aids](#) (asha.org) Includes links to all 23 state mandates.

[MDCR Division on Deaf, DeafBlind and Hard of Hearing](#) In 2018, the MDCR Division on Deaf, DeafBlind, and Hard of Hearing conducted a year-long census and needs assessment for the community called *Not without Us*. The results of the assessment revealed that approximately 7.4 percent of Michiganders identify as Deaf, DeafBlind, or Hard of Hearing, which is nearly double the previous estimates for the state. The assessment also identified significant barriers for these individuals in accessing public events, including education and government meetings. Furthermore, the assessment highlighted significant disparities in pay between the general population and individuals who are Deaf or DeafBlind, despite having the same level of educational attainment.

"The census reveals that the Deaf, DeafBlind and Hard of Hearing community has been dramatically under-estimated in Michigan," said Annie Urasky, director of the Michigan Department of Civil Rights (MDCR) Division on Deaf, DeafBlind and Hard of Hearing (DODDBHH).

“Such significant discrepancies lead to under-resourcing and under-representation throughout Michigan’s public and cultural life. With this new data, we will be able to more effectively work to solve systemic problems facing these communities” ... “This data tells us we have to do a better job of making Michigan’s communities more accessible and help them communicate that accessibility more readily,”

[Representative Samantha Steckloff](#) has stated the following in support of HB 4944 and 4963:

“Hearing aids are not a cosmetic choice, and just as eyeglasses are covered by insurance to assist in vision, we believe it is our moral and societal responsibility to extend similar support for hearing-impaired children” ... “Indeed, approximately four hundred children are born in Michigan every year with hearing impairments or will develop one before starting school. We aim to ensure that every child under the age of 19 in Michigan has access to the tools they need to succeed.”

[National Association of the Deaf \(NAD\)](#):

The National Association of the Deaf (NAD) is a firm believer in the fundamental right of every Deaf, DeafBlind, DeafDisabled, and Hard of Hearing child to have access to a complete language from birth. This entails ensuring that every deaf child can achieve language milestones at the expected age and in an appropriate manner. It involves providing evidence-based language and communication support, as well as enabling them to interact with their environment without any barriers. These crucial factors contribute to the successful acquisition of language for most deaf children. NAD has released the following statement in reference to youth not having adequate access:

“many deaf children – perhaps as many as 70% – are deprived of language.”<sup>[1]</sup> Such deprivation is more prevalent among deaf children from Black, Indigenous, and Persons of Color (BIPOC) families and communities<sup>[2]</sup>. Language deprivation is a devastating reality for many deaf children, and must be addressed as a serious and urgent health crisis.

[National Deaf Center on Postsecondary Outcomes \(NDC\)](#): The NDC works to ensure deaf individuals have equal access and opportunities in postsecondary education and employment, offering resources, training, and expertise. The NDC conducted a report [Supporting Deaf College Students: Perspectives From Disability Services Professionals](#) and found that:

“Deaf students pursue postsecondary education and training at a comparable rate to their hearing peers. Yet they are unable to maximize their experience because institutions are not prepared to provide equitable access to the full range of programs and services available. The extent to which students are able to get started, stay on track, and successfully complete college can be attributed to a combination of institutional and individual readiness (Cawthon et al., 2013).”

**Director’s Signature**

