



February 12, 2008

**ENGROSSED
SENATE BILL No. 269**

DIGEST OF SB 269 (Updated February 6, 2008 5:13 pm - DI 92)

Citations Affected: IC 5-10; IC 27-8; IC 27-13; noncode.

Synopsis: Coverage for prosthetic devices. Requires a state employee health benefit plan, a policy of accident and sickness insurance, and a health maintenance organization contract to provide prosthetic device coverage. (The introduced version of this bill was prepared by the health finance commission.)

Effective: July 1, 2008.

Dillon, Simpson

(HOUSE SPONSORS — FRY, MURPHY, GOODIN, TYLER)

January 10, 2008, read first time and referred to Committee on Health and Provider Services.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed. Engrossed.

January 29, 2008, read third time, passed. Yeas 43, nays 5.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Ways and Means.

February 12, 2008, amended, reported — Do Pass.

C
o
p
y



February 12, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 269



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-14 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 14. (a) As used in this section, "covered individual"**
4 **means an individual who is entitled to coverage under a state**
5 **employee health benefit plan.**
6 **(b) As used in this section, "orthotic device" means a custom**
7 **fabricated brace or support that is designed based on medical**
8 **necessity.**
9 **(c) As used in this section, "prosthetic device" means an**
10 **artificial leg or arm.**
11 **(d) As used in this section, "state employee health benefit plan"**
12 **means a:**
13 **(1) self-insurance program established under section 7(b) of**
14 **this chapter; or**
15 **(2) contract with a prepaid health care delivery plan that is**
16 **entered into or renewed under section 7(c) of this chapter;**
17 **to provide group health coverage.**

C
O
P
Y

ES 269—LS 6342/DI 97+



- 1 (e) A state employee health benefit plan must provide coverage
- 2 for orthotic devices and prosthetic devices, including repair or
- 3 replacement of an orthotic device or a prosthetic device that:
- 4 (1) is performed by an orthotist, a prosthetist, or a pedorthist
- 5 certified by:
- 6 (A) the American Board for Certification in Orthotics,
- 7 Prosthetics and Pedorthics, or its successor; or
- 8 (B) the Board for Orthotist or Prosthetist Certification, or
- 9 its successor;
- 10 (2) is determined by the covered individual's physician to be
- 11 medically necessary to restore or maintain the covered
- 12 individual's ability to perform activities of daily living or
- 13 essential job related activities; and
- 14 (3) is not solely for comfort or convenience.
- 15 (f) The coverage required under subsection (e) must be equal to
- 16 the coverage that is provided for the same device, repair, or
- 17 replacement under the federal Medicare reimbursement schedule,
- 18 unless:
- 19 (1) otherwise limited by this section; or
- 20 (2) a different reimbursement rate is negotiated.
- 21 (g) Except as provided in subsection (h), the coverage required
- 22 under subsection (e):
- 23 (1) may be subject to; and
- 24 (2) may not be more restrictive than;
- 25 the provisions that apply to other benefits under the state employee
- 26 health plan.
- 27 (h) The coverage required under subsection (e) may be subject
- 28 to utilization review, including periodic review, of the continued
- 29 medical necessity of the benefit.
- 30 (i) Coverage under a state employee health benefit plan may not
- 31 be changed in an attempt to cause a covered individual to elect
- 32 Medicare as the covered individual's primary coverage.
- 33 SECTION 2. IC 27-8-24.2 IS ADDED TO THE INDIANA CODE
- 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2008]:
- 36 Chapter 24.2. Coverage for Prosthetic Devices
- 37 Sec. 1. As used in this chapter, "insured" means an individual
- 38 who is entitled to coverage under a policy of accident and sickness
- 39 insurance.
- 40 Sec. 2. (a) As used in this chapter, "policy of accident and
- 41 sickness insurance" has the meaning set forth in IC 27-8-5-1.
- 42 (b) The term does not include the following:

COPY



- 1 **(1) Accident only, credit, dental, vision, Medicare, Medicare**
- 2 **supplement, long term care, or disability income insurance.**
- 3 **(2) Coverage issued as a supplement to liability insurance.**
- 4 **(3) Automobile medical payment insurance.**
- 5 **(4) A specified disease policy.**
- 6 **(5) A limited benefit health insurance policy.**
- 7 **(6) A short term insurance plan that:**
- 8 **(A) may not be renewed; and**
- 9 **(B) has a duration of not more than six (6) months.**
- 10 **(7) A policy that provides a stipulated daily, weekly, or**
- 11 **monthly payment to an insured during hospital confinement,**
- 12 **without regard to the actual expense of the confinement.**
- 13 **(8) Worker's compensation or similar insurance.**
- 14 **(9) A student health insurance policy.**

15 **Sec. 3. As used in this chapter, "orthotic device" means a**
 16 **custom fabricated brace or support that is designed based on**
 17 **medical necessity.**

18 **Sec. 4. As used in this chapter, "prosthetic device" means an**
 19 **artificial leg or arm.**

20 **Sec. 5. A policy of accident and sickness insurance must provide**
 21 **coverage for orthotic devices and prosthetic devices, including**
 22 **repair or replacement of an orthotic device or a prosthetic device**
 23 **that:**

- 24 **(1) is performed by an orthotist, a prosthetist, or a pedorthist**
- 25 **certified by:**
- 26 **(A) the American Board for Certification in Orthotics,**
- 27 **Prosthetics and Pedorthics, or its successor; or**
- 28 **(B) the Board for Orthotist or Prosthetist Certification, or**
- 29 **its successor;**
- 30 **(2) is determined by the insured's physician to be medically**
- 31 **necessary to restore or maintain the insured's ability to**
- 32 **perform activities of daily living or essential job related**
- 33 **activities; and**
- 34 **(3) is not solely for comfort or convenience.**

35 **Sec. 6. The coverage required under section 5 of this chapter**
 36 **must be equal to the coverage that is provided for the same device,**
 37 **repair, or replacement under the federal Medicare reimbursement**
 38 **schedule, unless:**

- 39 **(1) otherwise limited by this chapter; or**
- 40 **(2) a different reimbursement rate is negotiated.**

41 **Sec. 7. Except as provided in section 8 of this chapter, the**
 42 **coverage required under section 5 of this chapter:**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(1) may be subject to; and
(2) may not be more restrictive than;
the provisions that apply to other benefits under the policy of
accident and sickness insurance.

Sec. 8. The coverage required under section 5 of this chapter
may be subject to utilization review, including periodic review, of
the continued medical necessity of the benefit.

Sec. 9. Coverage under a policy of accident and sickness
insurance may not be changed in an attempt to cause an insured to
elect Medicare as the insured's primary coverage.

SECTION 3. IC 27-13-7-19 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2008]: Sec. 19. (a) As used in this section, "orthotic device"
means a custom fabricated brace or support that is designed based
on medical necessity.

(b) As used in this section, "prosthetic device" means an
artificial leg or arm.

(c) An individual contract or a group contract must provide
coverage for orthotic devices and prosthetic devices, including
repair or replacement of an orthotic device or a prosthetic device
that:

(1) is performed by an orthotist, a prosthetist, or a pedorthist
certified by:

(A) the American Board for Certification in Orthotics,
Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or
its successor;

(2) is determined by the enrollee's physician to be medically
necessary to restore or maintain the enrollee's ability to
perform activities of daily living or essential job related
activities; and

(3) is not solely for comfort or convenience.

(d) The coverage required under subsection (c) must be equal to
the coverage that is provided for the same device, repair, or
replacement under the federal Medicare reimbursement schedule,
unless:

(1) otherwise limited by this section; or

(2) a different reimbursement rate is negotiated.

(e) Except as provided in subsection (f), the coverage required
under subsection (c):

(1) may be subject to; and

(2) may not be more restrictive than;

C
o
p
y



1 the provisions that apply to other benefits under the group
 2 contract or individual contract.
 3 (f) The coverage required under subsection (c) may be subject
 4 to utilization review, including periodic review, of the continued
 5 medical necessity of the benefit.
 6 (g) Coverage under an individual contract or a group contract
 7 may not be changed in an attempt to cause an enrollee to elect
 8 Medicare as the enrollee's primary coverage.
 9 SECTION 4. [EFFECTIVE JULY 1, 2008] (a) IC 5-10-8-14, as
 10 added by this act, applies to a state employee health benefit plan
 11 that is established, entered into, delivered, amended, or renewed
 12 after June 30, 2008.
 13 (b) IC 27-8-24.2, as added by this act, applies to a policy of
 14 accident and sickness insurance that is issued, delivered, amended,
 15 or renewed after June 30, 2008.
 16 (c) IC 27-13-7-19, as added by this act, applies to an individual
 17 contract or a group contract that is entered into, delivered,
 18 amended, or renewed after June 30, 2008.

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 269, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, after "(b)" insert "**As used in this section, "orthotic device" means a custom fabricated brace or support that is designed based on medical necessity.**

(c)".

Page 1, line 7, delete "medical device that is not surgically implanted and that" and insert "**leg or arm.**".

Page 1, delete lines 8 through 15.

Page 1, line 16, delete "(c)" and insert "(d)".

Page 2, line 6, delete "(d)" and insert "(e)".

Page 2, line 6, delete "the" and insert "**coverage for orthotic devices and prosthetic devices, including repair or replacement of an orthotic device or a prosthetic device that:**

(1) is performed by a licensed orthotist or prosthetist or a certified pedorthist;

(2) is determined by the covered individual's physician to be medically necessary to restore or maintain the covered individual's ability to perform activities of daily living or essential job related activities; and

(3) is not solely for comfort or convenience.

(f) The coverage required under subsection (e) must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless:

(1) otherwise limited by this section; or

(2) a different reimbursement rate is negotiated.

(g) Except as provided in subsection (h), the coverage required under this section:

(1) may be subject to; and

(2) may not be more restrictive than;

the provisions that apply to other benefits under the state employee health plan.

(h) The coverage required under this section may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

Page 2, delete lines 7 through 19.

Page 3, line 2, after "(a)" insert "**As used in this chapter, "orthotic**

C
O
P
Y



device" means a custom fabricated brace or support that is designed based on medical necessity.

(b)".

Page 3, line 3, delete "medical device that is not surgically implanted and that" and insert **"leg or arm."**

Page 3, delete lines 4 through 12.

Page 3, line 13, after "provide" insert **"coverage for orthotic devices and prosthetic devices, including repair or replacement of an orthotic device or a prosthetic device that:**

- (1) is performed by a licensed orthotist or prosthetist or a certified pedorthist;**
- (2) is determined by the insured's physician to be medically necessary to restore or maintain the insured's ability to perform activities of daily living or essential job related activities; and**
- (3) is not solely for comfort or convenience.**

Sec. 5. The coverage required under section 4 of this chapter must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless:

- (1) otherwise limited by this chapter; or**
- (2) a different reimbursement rate is negotiated.**

Sec. 6. Except as provided in section 7 of this chapter, the coverage required under section 4 of this chapter:

- (1) may be subject to; and**
- (2) may not be more restrictive than;**

the provisions that apply to other benefits under the policy of accident and sickness insurance.

Sec. 7. The coverage required under section 4 of this chapter may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

Page 3, delete lines 14 through 25.

Page 3, line 28, after "(a)" insert **"As used in this section, "orthotic device" means a custom fabricated brace or support that is designed based on medical necessity.**

(b)".

Page 3, line 29, delete "medical device that is not surgically implanted" and insert **"leg or arm."**

Page 3, delete lines 30 through 38.

Page 3, line 39, delete "the" and insert **"coverage for orthotic devices and prosthetic devices, including repair or replacement of an orthotic device or a prosthetic device that:**

**C
O
P
Y**



- (1) is performed by a licensed orthotist or prosthetist or a certified pedorthist;
- (2) is determined by the enrollee's physician to be medically necessary to restore or maintain the enrollee's ability to perform activities of daily living or essential job related activities; and
- (3) is not solely for comfort or convenience.

(d) Except as provided in subsection (e), the coverage required under subsection (c):

- (1) may be subject to; and
- (2) may not be more restrictive than;

the provisions that apply to other benefits under the group contract or individual contract.

(e) The coverage required under this section may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

Page 3, delete lines 40 through 42.

Page 4, delete lines 1 through 9.

and when so amended that said bill do pass.

(Reference is to SB 269 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 269, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 4, delete "a licensed orthotist or prosthetist or a" and insert "**an orthotist, a prosthetist, or a pedorthist certified by:**

(A) the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or its successor;"

Page 2, delete line 5.

Page 2, line 18, delete "this section:" and insert "**subsection (e):**".

Page 2, line 23, delete "this section" and insert "**subsection (e)**".

Page 2, between lines 25 and 26, begin a new paragraph and insert:

ES 269—LS 6342/DI 97+



C
O
P
Y

"(i) Coverage under a state employee health benefit plan may not be changed in an attempt to cause a covered individual to elect Medicare as the covered individual's primary coverage."

Page 3, line 8, delete "(a)".

Page 3, line 11, delete "(b)" and insert "**Sec. 4.**".

Page 3, line 13, delete "4." and insert "**5.**".

Page 3, line 17, delete "a licensed orthotist or prosthetist or a" and insert "**an orthotist, a prosthetist, or a pedorthist certified by:**

(A) the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or its successor;"

Page 3, delete line 18.

Page 3, line 24, delete "5." and insert "**6.**".

Page 3, line 24, delete "4" and insert "**5**".

Page 3, line 30, delete "6." and insert "**7.**".

Page 3, line 30, delete "7" and insert "**8**".

Page 3, line 31, delete "4" and insert "**5**".

Page 3, line 36, delete "7." and insert "**8.**".

Page 3, line 36, delete "4" and insert "**5.**".

Page 3, between lines 38 and 39, begin a new paragraph and insert:
"Sec. 9. Coverage under a policy of accident and sickness insurance may not be changed in an attempt to cause an insured to elect Medicare as the insured's primary coverage."

Page 4, line 8, delete "a licensed orthotist or prosthetist or a" and insert "**an orthotist, a prosthetist, or a pedorthist certified by:**

(A) the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or its successor;"

Page 4, delete line 9.

Page 4, between lines 14 and 15, begin a new paragraph and insert:
"(d) The coverage required under subsection (c) must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless:

(1) otherwise limited by this section; or

(2) a different reimbursement rate is negotiated."

Page 4, line 15, delete "(d)" and insert "**(e)**".

Page 4, line 15, delete "(e)," and insert "**(f)**".

Page 4, line 21, delete "(e)" and insert "**(f)**".

Page 4, line 21, delete "this section" and insert "**subsection (c)**".

**C
o
p
y**



Page 4, between lines 23 and 24, begin a new paragraph and insert:
"(g) Coverage under an individual contract or a group contract may not be changed in an attempt to cause an enrollee to elect Medicare as the enrollee's primary coverage."

and when so amended that said bill do pass.

(Reference is to SB 269 as printed January 25, 2008.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 0.

**C
o
p
y**

