



# House of Representatives

General Assembly

**File No. 328**

January Session, 2021

House Bill No. 5013

*House of Representatives, April 8, 2021*

The Committee on Insurance and Real Estate reported through REP. WOOD, K. of the 29th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING MANDATED HEALTH INSURANCE BENEFIT REVIEW.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-21 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) As used in this section:

4 (1) "Commissioner" means the Insurance Commissioner.

5 (2) "Mandated health benefit" means [an existing statutory obligation  
6 of, or] proposed legislation that would require [,] an insurer, health care  
7 center, hospital service corporation, medical service corporation,  
8 fraternal benefit society or other entity that offers individual or group  
9 health insurance or a medical or health care benefits plan in this state to  
10 [; (A) Permit an insured or enrollee to obtain health care treatment or  
11 services from a particular type of health care provider; (B) offer or  
12 provide coverage for the screening, diagnosis or treatment of a  
13 particular disease or condition; or (C)] offer or provide coverage for a  
14 particular type of health care treatment or service, or for medical  
15 equipment, medical supplies or drugs used in connection with a health

16 care treatment or service. ["Mandated health benefit" includes any  
17 proposed legislation to expand or repeal an existing statutory obligation  
18 relating to health insurance coverage or medical benefits.]

19 (b) (1) There is established within the Insurance Department a health  
20 benefit review program for the review and evaluation of any mandated  
21 health benefit that is requested by the joint standing committee of the  
22 General Assembly having cognizance of matters relating to insurance.  
23 Such program shall be funded by the Insurance Fund established under  
24 section 38a-52a. The commissioner shall be authorized to make  
25 assessments in a manner consistent with the provisions of chapter 698  
26 for the costs of carrying out the requirements of this section. Such  
27 assessments shall be in addition to any other taxes, fees and moneys  
28 otherwise payable to the state. The commissioner shall deposit all  
29 payments made under this section with the State Treasurer. The moneys  
30 deposited shall be credited to the Insurance Fund and shall be accounted  
31 for as expenses recovered from insurance companies. Such moneys shall  
32 be expended by the commissioner to carry out the provisions of this  
33 section and section 2 of public act 09-179.

34 (2) The commissioner [shall] may contract with The University of  
35 Connecticut Center for Public Health and Health Policy or an actuarial  
36 accounting firm to conduct any mandated health benefit review  
37 requested pursuant to subsection (c) of this section. The director of said  
38 center may engage the services of an actuary, quality improvement  
39 clearinghouse, health policy research organization or any other  
40 independent expert, and may engage or consult with any dean, faculty  
41 or other personnel said director deems appropriate within The  
42 University of Connecticut schools and colleges, including, but not  
43 limited to, The University of Connecticut (A) School of Business, (B)  
44 School of Dental Medicine, (C) School of Law, (D) School of Medicine,  
45 and (E) School of Pharmacy.

46 [(c) Not later than August first of each year, the joint standing  
47 committee of the General Assembly having cognizance of matters  
48 relating to insurance shall submit to the commissioner a list of any

49 mandated health benefits for which said committee is requesting a  
50 review. Not later than January first of the succeeding year, the  
51 commissioner shall submit a report, in accordance with section 11-4a, of  
52 the findings of such review and the information set forth in subsection  
53 (d) of this section.

54 (d) The review report shall include at least the following, to the extent  
55 information is available:

56 (1) The social impact of mandating the benefit, including:]

57 (c) During a regular session of the General Assembly, the joint  
58 standing committee of the General Assembly having cognizance of  
59 matters relating to insurance may, upon a majority vote of its members,  
60 require the commissioner to conduct one review of not more than five  
61 mandated health benefits. The committee shall submit to the  
62 commissioner a list of the mandated health benefits to be reviewed.

63 (d) Not later than January first of the first calendar year following a  
64 request for review made under subsection (c) of this section, the  
65 commissioner shall submit a mandated health benefit review report, in  
66 accordance with section 11-4a, to the joint standing committees of the  
67 General Assembly having cognizance of matters relating to insurance  
68 and public health. Such report shall include an evaluation of the quality  
69 and cost impacts of mandating the benefit, including:

70 [(A)] (1) The extent to which the treatment, service or equipment,  
71 supplies or drugs, as applicable, is utilized by a significant portion of  
72 the population;

73 [(B)] (2) The extent to which the treatment, service or equipment,  
74 supplies or drugs, as applicable, is currently available to the population,  
75 including, but not limited to, coverage under Medicare, or through  
76 public programs administered by charities, public schools, the  
77 Department of Public Health, municipal health departments or health  
78 districts or the Department of Social Services;

79 [(C)] (3) The extent to which insurance coverage is already available

80 for the treatment, service or equipment, supplies or drugs, as applicable;

81 [(D) If the coverage is not generally available, the extent to which  
82 such lack of coverage results in persons being unable to obtain necessary  
83 health care treatment;

84 (E) If the coverage is not generally available, the extent to which such  
85 lack of coverage results in unreasonable financial hardships on those  
86 persons needing treatment;

87 (F) The level of public demand and the level of demand from  
88 providers for the treatment, service or equipment, supplies or drugs, as  
89 applicable;

90 (G) The level of public demand and the level of demand from  
91 providers for insurance coverage for the treatment, service or  
92 equipment, supplies or drugs, as applicable;

93 (H) The likelihood of achieving the objectives of meeting a consumer  
94 need as evidenced by the experience of other states;

95 (I) The relevant findings of state agencies or other appropriate public  
96 organizations relating to the social impact of the mandated health  
97 benefit;

98 (J) The alternatives to meeting the identified need, including, but not  
99 limited to, other treatments, methods or procedures;

100 (K) Whether the benefit is a medical or a broader social need and  
101 whether it is consistent with the role of health insurance and the concept  
102 of managed care;

103 (L) The potential social implications of the coverage with respect to  
104 the direct or specific creation of a comparable mandated benefit for  
105 similar diseases, illnesses or conditions;

106 (M) The impact of the benefit on the availability of other benefits  
107 currently offered;

108 (N) The impact of the benefit as it relates to employers shifting to self-  
109 insured plans and the extent to which the benefit is currently being  
110 offered by employers with self-insured plans;]

111 [(O)] (4) The impact of making the benefit applicable to the state  
112 employee health insurance or health benefits plan; [and]

113 [(P)] (5) The extent to which credible scientific evidence published in  
114 peer-reviewed medical literature generally recognized by the relevant  
115 medical community determines the treatment, service or equipment,  
116 supplies or drugs, as applicable, to be safe and effective; [and]

117 [(2) The financial impact of mandating the benefit, including:]

118 [(A)] (6) The extent to which the mandated health benefit may  
119 increase or decrease the cost of the treatment, service or equipment,  
120 supplies or drugs, as applicable, over the next five years;

121 [(B)] (7) The extent to which the mandated health benefit may  
122 increase the appropriate or inappropriate use of the treatment, service  
123 or equipment, supplies or drugs, as applicable, over the next five years;

124 [(C)] (8) The extent to which the mandated health benefit may serve  
125 as an alternative for more expensive or less expensive treatment, service  
126 or equipment, supplies or drugs, as applicable;

127 [(D)] (9) The methods that will be implemented to manage the  
128 utilization and costs of the mandated health benefit;

129 [(E)] (10) The extent to which insurance coverage for the treatment,  
130 service or equipment, supplies or drugs, as applicable, may be  
131 reasonably expected to increase or decrease the insurance premiums  
132 and administrative expenses for policyholders;

133 [(F)] (11) The extent to which the treatment, service or equipment,  
134 supplies or drugs, as applicable, is more or less expensive than an  
135 existing treatment, service or equipment, supplies or drugs, as  
136 applicable, that is determined to be equally safe and effective by credible

137 scientific evidence published in peer-reviewed medical literature  
138 generally recognized by the relevant medical community;

139 [(G)] (12) The impact of insurance coverage for the treatment, service  
140 or equipment, supplies or drugs, as applicable, on the total cost of health  
141 care, including potential benefits or savings to insurers and employers  
142 resulting from prevention or early detection of disease or illness related  
143 to such coverage;

144 [(H)] (13) The impact of the mandated health care benefit on the cost  
145 of health care for small employers, as defined in section 38a-564, and for  
146 employers other than small employers; and

147 [(I)] (14) The impact of the mandated health benefit on cost-shifting  
148 between private and public payors of health care coverage and on the  
149 overall cost of the health care delivery system in the state.

150 (e) The joint standing committees of the General Assembly having  
151 cognizance of matters relating to insurance and public health shall  
152 conduct a joint informational hearing following their receipt of a  
153 mandated health benefit review report submitted by the commissioner  
154 pursuant to subsection (d) of this section. The commissioner shall attend  
155 and be available for questions from the members of the committees at  
156 such hearing. On and after January 1, 2022, the General Assembly shall  
157 not enact legislation to establish a mandated health benefit unless (1)  
158 such benefit has been the subject of a report and an informational  
159 hearing as provided in this section, or (2) upon a two-thirds vote of the  
160 members of the joint standing committee of the General Assembly  
161 having cognizance of matters relating to insurance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	38a-21

**INS**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Insurance Dept.	IF - Indeterminate	Potential	Potential

Note: IF=Insurance Fund

**Municipal Impact:** None

**Explanation**

The bill may result in a change in costs and an equally sized change in revenue to the Insurance Department (DOI) associated with the Health Benefit Review Program (HBRP). Unchanged by the bill, costs of the program are reimbursed by domestic carriers, so there is no anticipated net fiscal impact to the state.

To the extent that the bill's modifications to the mandate process result in more or more frequent referrals to the HBRP, DOI will incur more contract costs to analyze the mandate proposals. The most recent review was conducted in FY 15 at a cost of \$536,029.

On a per-review basis, the bill's provisions are likely to result in savings compared to current law. Specifically, limits to the number and type of mandates, changes to the criteria that must be evaluated, and the potential for competitive bidding may result in contract cost savings when reviews are conducted.

**The Out Years**

The annualized ongoing fiscal impact identified above would

continue into the future.

*Sources: Connecticut Insurance Department*

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**OLR Bill Analysis****HB 5013*****AN ACT CONCERNING MANDATED HEALTH INSURANCE BENEFIT REVIEW.*****SUMMARY**

This bill modifies the Insurance Department's mandated health benefit review program. Beginning January 1, 2022, it also prohibits the General Assembly from enacting legislation establishing a mandated health benefit unless (1) the benefit has gone through the review program and a legislative hearing or (2) two-thirds of the Insurance and Real Estate Committee votes for it. (It is unclear whether this requirement is enforceable based on the principle of legislative entrenchment, under which one legislature generally cannot restrict a future legislature's ability to enact legislation.)

The bill authorizes the Insurance and Real Estate Committee, during a regular legislative session and by a majority vote of its members, to require the insurance commissioner to review and report on up to five proposed mandated health benefits by the next January 1. Under current law, the committee may request a review of any number of existing or proposed benefits by August 1 of each year. By law, unchanged by the bill, the commissioner may assess health carriers (e.g., insurers and HMOs) for the costs of the health benefit review program. Assessments are deposited in the Insurance Fund.

The bill requires the commissioner to submit the mandated health benefit reports to the Insurance and Real Estate and Public Health committees, which must hold a joint informational hearing on each report. It requires him to attend each hearing to take members' questions.

The bill also does the following:

1. narrows the definition of “mandated health benefit”;
2. reduces the amount of information the commissioner’s reports must include on each benefit;
3. allows, rather than requires, the commissioner to contract with the UConn Center for Public Health and Health Policy to conduct a review; and
4. allows him to contract with an actuarial accounting firm to conduct a review.

EFFECTIVE DATE: July 1, 2021

## **MANDATED HEALTH BENEFIT REVIEW PROGRAM**

### ***Mandated Health Benefit Definition***

The bill narrows the definition of “mandated health benefit.” Under the bill, the term means proposed legislation that requires a health carrier (e.g., insurer or HMO) offering health insurance policies or benefit plans in the state to offer or provide coverage for (1) a particular type of health care treatment or service or (2) medical equipment, supplies, or drugs used in connection with a health treatment or service.

Under current law, the term also includes the following, which the bill eliminates:

1. an existing statutory obligation of the carrier to offer or provide coverage;
2. proposed legislation to expand or repeal an existing coverage obligation;
3. an existing obligation or proposed legislation allowing enrollees to obtain treatment or services from a particular type of health care provider; and
4. an existing obligation or proposed legislation to offer or provide coverage for the screening, diagnosis, or treatment of a particular

disease or condition.

### ***Mandated Health Benefit Reports***

Under the bill, the commissioner must report to the Insurance and Real Estate and Public Health committees on the proposed mandated health benefits by January 1 following a request. Current law requires him to submit reports only to the Insurance and Real Estate Committee.

The bill reduces the amount of information each report must contain. Under current law, a report must review specified social and financial impacts of mandating the benefit. The bill instead requires a report to evaluate the specified quality and cost impacts of mandating it.

***Elements Required.*** As under existing law, each mandated health benefit report must include the following elements:

1. the extent to which a significant portion of the population uses the treatment, service, equipment, supplies, or drugs;
2. the extent to which the treatment, service, equipment, supplies, or drugs are available under Medicare or through other public programs;
3. the extent to which insurance policies already cover the treatment, service, equipment, supplies, or drugs;
4. the effect of applying the benefit to the state employees' health benefits plan;
5. the extent to which credible scientific evidence published in peer-reviewed medical literature determines the treatment, service, equipment, supplies, or drugs are safe and effective;
6. the extent to which the benefit, over the next five years, may (a) increase or decrease the cost of the treatment, service, equipment, supplies, or drugs and (b) increase the appropriate or inappropriate use of the benefit;

7. the extent to which the treatment, service, equipment, supplies, or drugs are more or less expensive than an existing one determined to be equally safe and effective by credible scientific evidence published in peer-reviewed medical literature;
8. the extent to which the benefit could be an alternative for more or less expensive treatment, service, equipment, supplies, or drugs;
9. the reasonably expected increase or decrease of a policyholder's insurance premiums and administrative expenses;
10. methods that will be implemented to manage the benefit's use and costs;
11. the effect on the (a) total cost of health care, including potential savings to insurers and employers resulting from prevention or early detection of disease or illness, and (b) cost of health care for small employers and other employers; and
12. the effect on (a) cost-shifting between private and public payors of health care coverage and (b) the overall cost of the state's health care delivery system.

**Elements No Longer Required.** The bill eliminates the following elements from a mandated health benefit report:

1. if coverage of the benefit is not generally available, the extent to which this results in (a) people being unable to obtain necessary treatment and (b) unreasonable financial hardships on those needing treatment;
2. the level of demand from the public and health care providers for (a) the treatment, service, equipment, supplies, or drugs and (b) insurance coverage for these;
3. the likelihood of meeting a consumer need based on other states' experiences;
4. relevant findings of state agencies or other appropriate public

- organizations relating to the benefit’s social impact;
- 5. alternatives to meeting the identified need, including other treatments, methods, or procedures;
- 6. whether the benefit is (a) a medical or broader social need and (b) consistent with the role of health insurance and managed care concepts;
- 7. potential social implications regarding the direct or specific creation of a comparable mandated benefit for similar diseases, illnesses, or conditions;
- 8. the benefit’s impact on (a) the availability of other benefits already offered and (b) employers shifting to self-insured plans; and
- 9. the extent to which employers with self-insured plans offer the benefit.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 17    Nay 1    (03/22/2021)