



## Advocacy Update – September 2018

The following bills were introduced in the Michigan Legislature or the U.S. Congress in 2017. To see what is happening with each bill, scroll past the list below and read on. If you are looking for an update on a particular bill or issue, click on the specific bill/issue and go directly to the update.

### **Bills introduced in the Michigan Legislature:**

H.B. 5258, The EMPOWER Bill

H.B. 5159, The Deaf, Deaf-Blind and Hard of Hearing Children’s Educational Bill of Rights

H.B. 4713 & House Bill 4714, Behavioral Health Bills

H.B. 4440, Cytomegalovirus Public Education Awareness Bill

Medicaid Proposed Policy Draft

### **Bills introduced in Congress:**

H.R. 620, ADA Education and Reform Act of 2017

H.R. 3111, 508 & 3426, Medicare Bills for Coverage of Hearing Aids  
Over-the-Counter (OTC) Hearing Aid Act of 2017

### **Bills introduced in the Michigan Legislature:**

**The EMPOWER Bill, H.B. 5258** – Introduced in the Michigan House of Representatives on October 24, 2017, by Representative Martin Howrylak.

The Early Meaningful Parental Outreach With Educational Resources (**EMPOWER**) Law amends the Revised School Code, to prescribe assessments and developmental milestones for deaf, deafblind, and hard-of-hearing students (“designated children”) from birth to age 8. It places the communication choice for a child who is deaf or hard of hearing in the hands of the parent.

**The Deaf, Deaf-Blind and Hard of Hearing Children’s Educational Bill of Rights, H.B. 5159** – Introduced in the Michigan House of Representatives on October 24, 2017, by Representative Phil Phelps.

House Bill 5159 would create the Deaf, Deafblind, and Hard of Hearing Children’s Educational Bill of Rights Law within the Revised School Code.

To read the two bills along with a detailed summary by the House Fiscal Agency go to:  
[http://www.legislature.mi.gov/\(S\(nnv3ykeuo5wgoInlzqmgzew\)\)/mileg.aspx?page=GetObject&objectname=2017-HB-5158](http://www.legislature.mi.gov/(S(nnv3ykeuo5wgoInlzqmgzew))/mileg.aspx?page=GetObject&objectname=2017-HB-5158)

Both bills were referred to the House Committee on Health Policy where they were given a hearing on October 25, 2017. The bills are still in committee. They are supported by HLAA-MI.

**UPDATE:** While these bills remain in the Health Policy Committee, HLAA-MI has learned that one advocacy group is advocating for extensive and significant amendments to H.B. 5158 and as a result there is now a “substitute EMPOWER Bill.” This bill has not been introduced at this time. It is important to note that the EMPOWER Bill came out of the Michigan Legislative Deaf, DeafBlind and Hard of Hearing Caucus. Three legislators who led the Caucus, two in the House, one in the Senate, are term-limited. HLAA-MI will be alert to activity related to this issue.

**H.B. 4713 & 4714 – Behavioral Health Bills** – Introduced in the Michigan House of Representatives on June 7, 2017, by Representative Phil Phelps.

HB 4713 would establish a “division” on behavioral health for deaf, deafblind and hard of hearing people within the Michigan Department of Health and Human Services (DHHS). H.B. 4714 establishes a “commission” on behavioral health for people who are Deaf, Deafblind and Hard of Hearing within DHHS. Behavioral health is defined to mean the prevention and treatment of mental illness and substance use disorder. Currently, there is a lack of behavioral health services to these populations, due in part to a lack of trained professionals who understand the impact of deafness/hearing loss and who can communicate proficiently with those seeking services. Thus, the purpose of both the division and the commission is to improve, protect and assist behavioral health services to people who are Deaf, Deafblind or Hard of Hearing.

Both bills were referred to the House Committee on Health Policy. As of this date neither bill has been brought before the committee and an analysis of the bills is not available. HLAA-MI supports these bills.

**UPDATE:** In July 2018, the Michigan Department of Health and Human Services (MDHHS) provided an opportunity to the Deaf, Hard of Hearing and Deaf Blind Task Force to submit modifications for language assistance and accommodations to state contracts between MDHHS and Prepaid Inpatient Health Plans (PIHPs). HLAA-MI offered input for communication accessibility and accommodations. While H.B. 4713 and H.B. 4714 are

opposed by MDHHS, it is believed that H.B. 4713 and 4714 led to contract modifications and is thus seen as progress.

**H.B. 4440 – Cytomegalovirus (CMV) Public Education Awareness** – Introduced in the House of Representatives on March 30, 2017 by Representative Robert Kosowski.

Amends the Public Health Code of 1978 to require the state health department to conduct a public and health provider education and awareness campaign on risks related to cytomegalovirus. Referred to Committee on Health Policy. No action has been taken on the bill.

**For more information, see: [Support the Michigan Cytomegalovirus Bill \(H.B. 4440\) on this site](#) – note references at end of article. Also see: <https://www.nationalcmv.org/congenital-cmv/outcomes.aspx>.**

**UPDATE:** June was Cytomegalovirus Awareness Month. HLAA-MI distributed packets of information to all members of the House of Representatives asking them to support H.B. 4440, and to all Senators, asking them to introduce a companion bill in the Senate. We followed up in July with a letter to the chair of the House Health Policy Committee requesting a hearing on the bill. We also met with the MDHHS Legislative Liaison and the MDHHS Early Hearing Detection and Intervention (EHDI) Coordinator. Both support H.B. 4440. As of August 17, a tentative date – November 28 at 9:00 am – has been set for a hearing on this bill. **Please check this website often for updates and Calls to Action.** Make sure you are signed up to receive our advocacy alerts by emailing [advocacy@hearingloss-mi.org](mailto:advocacy@hearingloss-mi.org).

**Medicaid Proposed Policy Draft** – In June, 2018, the Michigan Department of Health and Human Services (MDHHS) sent out a Proposed Policy Draft regarding the Reinstatement of Adult Hearing Aid Coverage under Medicaid. The purpose of the bulletin was: to reinstate coverage of hearing aids for Medicaid beneficiaries, 21 years and older, every 5 years; provide 36 disposable hearing aid batteries per hearing aid every 6 months; and provide replacement of earmolds(s) for beneficiaries 13 years old and over, once every 12 months per aid. HLAA-MI put out an Action Alert asking advocates to give input into the proposal. HLAA-MI also suggested that hearing aids provided to Medicaid recipients have a telephone coil and that recipients who have difficulty switching between programs in their hearing aids receive a remote control. We also recommended that some form of dry-aid system be provided to recipients.

## **Bills introduced in Congress:**

**H.R. 620 – ADA Education and Reform Act of 2017** – Introduced in the House of Representatives on January 24, 2017, by Representative Ted Poe of Texas. This bill passed

the House on February 15, 2018, and was sent to the Senate. To date, no similar bill has emerged from the Senate. **HLAA and HLAA-MI OPPOSED THIS LEGISLATION!**

**H.R. 620 weakens the Americans with Disabilities Act (ADA), a critical source of rights for people with disabilities to architectural access in public accommodations—that is, businesses such as stores, restaurants, hotels, etc.** (taken from HLAA website)

Sign up for HLAA eNews (Hearingloss.org) or the HLAA-MI advocacy list ([advocacy@hearingloss-mi.org](mailto:advocacy@hearingloss-mi.org)) for future announcements and Calls to Action related to this issue.

### **Medicare Coverage of Hearing Aids**

Currently, Medicare does not cover the cost of hearing testing or hearing aids. They do cover hearing testing if ordered by a doctor for a medical problem, such as an ear infection, and then, it may depend on the diagnostic code assigned to the outcome of the test.

**At this time, there are three bills in Congress for Medicare coverage of hearing aids. All have been introduced in the House.**

#### **H.R. 3111 – Medicare Bill for Coverage of Dental, Vision and Hearing Benefit Act of 2017**

Introduced end of June (2017) by Representative Sander Levin of Michigan – To amend title XVIII of the Social Security Act to provide for coverage of dental, vision, and hearing care under the Medicare program. Referred to the Subcommittee on Health on 7/14/17. No action taken.

#### **H.R. 508 – the Seniors Have Eyes, Ears, and Teeth Act of 2017**

Introduced in January (2017) by Representative Lucille Roybal-Allard from California. To expand Medicare coverage to include eyeglasses, hearing aids, and dental care. Referred to subcommittee on Health on 1/13/17. No action taken.

#### **H.R. 3426 – Medicare Hearing Aid Coverage Act of 2017**

Introduced towards the end of July (2017) by Representative Debbie Dingell of Michigan. This bill amends title XVIII (Medicare) of the Social Security Act to allow Medicare coverage of hearing aids and related examinations. The Government Accountability Office must study programs that provide assistance for hearing aids and related examinations for individuals with hearing loss. Referred to Subcommittee on Health on 7/28/17. No action taken.

The Government Accountability Office (GAO) is a legislative branch government agency that provides auditing, evaluation, and investigative services for the United States

Congress. It is the supreme audit institution of the federal government of the United States. Currently these benefits are statutorily excluded from Medicare coverage.

### **Over-the-Counter (OTC) Hearing Aid Act of 2017**

The OTC Hearing Aid Act was signed into law in August of 2017. The law mandates that the Federal Food and Drug Administration (FDA) develop a hearing aid category within 3 years. At some time in the future, the FDA will release a Notice of Proposed Rulemaking (NPRM) that will give stakeholders a chance to give input into the rules and regulations for what this Act will look like.

To stay abreast of rules being developed and to give input when the NPRM becomes available, sign up for HLAA eNews (Hearingloss.org) or the HLAA-MI advocacy list ([advocacy@hearingloss-mi.org](mailto:advocacy@hearingloss-mi.org)) for future announcements and Calls to Action.

**UPDATE:** On July 26, 2018, “the US Food and Drug Administration (FDA) sent a letter cautioning hearing aid manufacturers against marketing their products as an *over-the-counter* (OTC) *hearing aid*.” The letter emphasizes that “the FDA definition of this hearing aid class—would probably include severity of loss and other important safety, quality and labeling requirements—has not yet been established.” For more information see:

<http://www.hearingreview.com/2018/07/fda-issues-letter-otc-hearing-aid-manufacturers/>