

HOUSE BILL 90  
By Overbey

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 7, Part 26, relative to health insurance coverage of bariatric surgery for the treatment of morbid obesity.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 26, is amended by adding the following language as a new, appropriately designated section:

§ 56-7-2607.

(a) As used in this section, unless the context otherwise requires:

(1) "Bariatric surgery" means Roux-en-Y gastric bypass or biliopancreatic diversion, as defined by the National Institutes of Health, performed either in open surgery or by laparoscopic technique, or other gastrointestinal surgery identified by the National Institutes of Health as effective for the treatment of morbid obesity, which may include gastric banding procedures if they are currently considered effective by the National Institutes of Health and are indicated by an insured's specific medical condition.

(2) "Morbid obesity" means either a body mass index more than forty (40) kilograms per meter squared, or a body mass index between thirty-five (35) and forty (40) kilograms per meter squared combined with a serious comorbid condition including, but not limited to, diabetes or cardiopulmonary conditions such as hypertension, severe sleep apnea, or heart disease. As used herein, body mass index equals weight in kilograms divided by height per meter squared.

(b)

(1) Notwithstanding any other provision of law to the contrary, any individual, franchise, blanket, or group health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, health maintenance organization, preferred provider organization, or managed care organization which provides hospital, surgical, or medical expense insurance shall offer and make available coverage under any such policy, contract, or plan for bariatric surgery for the treatment of morbid obesity.

(2) The provisions of this section are applicable to all health benefit policies, programs, or contracts which are offered by commercial insurance companies, nonprofit insurance companies, health maintenance organizations, preferred provider organizations, and managed care organizations, and which are entered into, delivered, issued for delivery, amended, or renewed after January 1, 2006.

(3) Reimbursement for the treatment of morbid obesity by bariatric surgery shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for other types of major surgery for treatment of physical illness or disease generally. Standards and criteria, including those related to diet, used by insurers to approve or restrict access to bariatric surgery for morbid obesity shall be based upon current clinical guidelines recognized by the National Institutes of Health. Those standards may include the requirement that an insured document that physician supervised weight control treatment has been ineffective in reducing the insured's weight below the levels articulated for morbid obesity, whether or not the policy, contract, or plan provides coverage for physician supervised weight control treatment. The surgeons contracted by the insurers to provide bariatric surgery for morbid obesity shall have current

experience in bariatric surgery and shall meet the standards set forth by the American Society of Bariatric Surgery and the National Institutes of Health, if any.

(4) Nothing in this section shall be construed to prohibit any insurer from providing medical benefits greater than or more favorable to the insured than the benefits established pursuant to this section.

(5) The provisions of this section shall not apply to short term travel policies, short term nonrenewable policies of not more than six (6) months' duration, accident only policies, limited or specific disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans, including the TennCare program.

SECTION 2. This act shall take effect on January 1, 2006, the public welfare requiring it.