

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2482

SPONSOR: Banking and Insurance Committee and Senator Alexander

SUBJECT: Motor Vehicle Personal Injury Protection Insurance Benefits

DATE: March 18, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 2482 deletes an inconsistent reference to the one-year period that is used for the annual adjustment in the Medical Care Item of the Consumer Price Index which applies to allowable amounts that may be charged to personal injury protection (PIP) insurance companies and insureds for magnetic resonance imaging services. By removing the inconsistent reference to “the 12 month period ending June 30 of that year,” this legislation clarifies that the annual adjustment is based on the prior calendar year’s changes in the cited price index.

The bill further provides that the PIP disclosure and acknowledgment form is not required for medical services rendered in an ambulatory surgical center due to the fact that the patient receiving such services is often not competent to sign the form due to the effects of anesthesia. Current law already provides that the form is not required for emergency services rendered in a hospital. Also, under the provisions of the bill, ambulatory surgical centers would not be required to maintain a patient log, but would have to maintain medical records and make such records available to insurers upon request.

This bill amends section 627.736 of the Florida Statutes.

**II. Present Situation:**

**Period of Time Adjustments Relating to Specified Fee Schedules**

In 2003, the Legislature enacted the “Florida Motor Vehicle Insurance Affordability Reform Act” (Act) which made comprehensive changes to the state’s motor vehicle personal injury

protection (PIP) insurance laws and other related statutory provisions.<sup>1</sup> The Act revised specific time requirements governing the submission of statements and payment of personal injury protection benefits so that such statements would be in compliance with specified billing, coding, and other requirements. The Act also provided allowable amounts that may be charged for various medical services, including specified thermograms, ultrasounds, nerve conduction tests, and magnetic resonance imaging services (MRIs).

Under s. 627.736(5)(b)5, F.S., allowable amounts that may be charged to a PIP insurer and insured for MRI services may not exceed 175 percent of the allowable amount under the participating physician fee schedule of Medicare part B for year 2001, for the area in which the treatment was rendered. The law provides for an annual adjustment for this maximum fee, but the language is internally inconsistent by stating that it shall be adjusted annually on August 1 to reflect “the prior calendar year’s changes” in the annual Medical Care Item of the Consumer Price Index (CPI) for All Urban Consumers in the South Region as determined by the Bureau of Labor Statistics “for the 12 month period ending June 30 of that year.”

The same conflict in the annual adjustment is contained in the provision that sets the maximum allowable fee at 200 percent of the participating fee schedule for MRI services provided in facilities accredited by the Accreditation Association for Ambulatory Health Care, the American College of Radiology, or the Joint Commission on Accreditation of Healthcare Organizations.

The provisions referring to the “prior calendar year’s changes” and the “12 month period ending June 30 of that year” are inconsistent and confusing. Representatives with the Office of Insurance Regulation recommend removing the latter phrase from the law, to reflect the office’s interpretation of the current law, as understood to be the intent of the Legislature. This would also be consistent with the annual adjustment for the fee limitation in the current PIP law for nerve conduction testing under s. 627.736(5)(b)3, F.S.

### **Disclosure and Acknowledgment Form**

The “Florida Motor Vehicle Insurance Affordability Reform Act” also provided for a “disclosure and acknowledgment form” which health care providers and the insured person, or his or her guardian, must execute at the *initial treatment* of the insured.<sup>2</sup> The form must reflect that:

- the insured or guardian attests to the fact that the services set forth therein were actually rendered;
- the insured or guardian were not solicited to seek medical services from the provider;
- the provider rendering the service explained the services to the insured or guardian; and
- that if the insured notifies the insurer in writing of a billing error, the insured may be entitled to a certain percentage of a reduction in the amounts paid by the insured’s motor vehicle insurer.

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<sup>1</sup> Chapter 2003-411, L.O.F.

<sup>2</sup> Section 627.736(5)(e), F.S. The provision of medical services to the insured and utilization of the form is to be based on a claim for PIP benefits. The Financial Services Commission was charged with promulgating the form which is now available on its web page: [http://www.fldfs.com/companies/pcfir/PIP\\_SDAF.htm](http://www.fldfs.com/companies/pcfir/PIP_SDAF.htm).

The form is not required for services billed by a provider for emergency services, emergency services and care rendered in a hospital emergency department, or for transport and treatment rendered by an ambulance provider. As to subsequent services, a provider (except for a hospital) must maintain a patient log signed by the patient by date of service that is consistent with services being rendered. Hospitals must, however, maintain specified medical records and make such records available to insurers upon request.

Representatives with ambulatory surgical centers state that these entities provide surgical care services to patients on a same day basis.<sup>3</sup> Oftentimes, however, the patient receiving such services is not competent to sign the disclosure and acknowledgment form due to the effects of anesthesia. These representatives assert that current law already provides that the form is not required for emergency services rendered in a hospital. Like hospitals, such centers also maintain medical records for patients which are available to insurers upon request.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 627.736(5)(b), F.S., pertaining to charges for treatment of injured persons for magnetic resonance imaging (MRI) services, to delete the phrase “for the 12 month period ending June 30 of that year.” This deletes an inconsistent reference to the one-year period that is used for the annual adjustment in the Medical Care Item of the Consumer Price Index which applies to allowable amounts that may be charged to personal injury protection insurance companies and insureds for MRI services. This clarifies that the annual adjustment is based on the prior calendar year’s changes in the cited price index. It also conforms this provision to the annual adjustment for maximum fees for nerve conduction testing under this section.

The bill amends s. 627.736(5)(e), F.S., by providing that the PIP disclosure and acknowledgment form is not required for medical services rendered in an ambulatory surgical center due to the fact that the patient receiving such services is often not competent to sign the form due to the effects of anesthesia. Also, the requirements as to maintaining a patient log signed by the patient may be met by an ambulatory surgical center by maintaining medical records as required by s. 395.3025, F.S., and applicable rules, and by making such records available to the insurer upon request. Current law provides that the form is not required for emergency services rendered in a hospital and that the hospital may maintain medical records in lieu of maintaining a patient log.

**Section 2.** Provides that the act will take effect July 1, 2004.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>3</sup> These centers, licensed under ch. 395, F.S., are defined as facilities for which the primary purpose is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not a hospital (s. 395.002, F.S.).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill will assist insurers and providers in clarifying the maximum amount that may be charged for MRI services.

The bill will facilitate payment of PIP benefits to ambulatory surgical centers, since patients receiving such services will no longer have to sign the disclosure and acknowledgment form. But the ambulatory centers will have to maintain medical records and make such records available to insurers upon request.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.