

STORAGE NAME: h3105s1z.hcs
DATE: May 26, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3105 (Passed as CS/SB 228)

RELATING TO: Health Insurance

SPONSOR(S): Committee on Health Care Services, Rep. Ritter and others

COMPANION BILL(S): SB 228

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE SERVICES YEAS 8 NAYS 2
- (2) FINANCIAL SERVICES (W/D)
- (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 8 NAYS 0
- (4)
- (5)

I. FINAL ACTION STATUS:

05/21/98 Approved by Governor; Chapter No. 98-66

II. SUMMARY:

This bill creates ss. 627.64193, 627.66911, and 641.31(34), F.S., which apply to individual and group accident or health insurance policies, and health maintenance organization (HMO) plans, to require that if the plan provides coverage for a child under the age of 18, the plan must include coverage for cleft lip and cleft palate for such child. The following services must be included in the coverage: medical, dental, speech therapy, audiology, and nutritional services. Coverage must be provided if these services are prescribed by the treating physician and the physician certifies the services are medically necessary and consequent to treatment of the cleft lip or cleft palate.

In addition, the bill amends s. 627.6515 and 627.6699, F.S., to apply these coverage requirements to out-of-state group policies and small group policies. Finally, this bill specifies that the Legislature has determined that the act fulfills an important state interest.

This legislation may result in increased costs for state and local governments related to the provision of employee health benefits. The state employee health insurance program estimates that enactment of this bill will increase the costs of the program by up to \$500,000 annually.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The term "cranio-facial anomaly" refers to an abnormality affecting the bones or joints of the face, neck, or head. Craniofacial deformities can result from abnormal growth patterns of the face and skull which involve soft tissue and bones. A craniofacial condition may include disfigurement brought about by birth defect, disease, or trauma.

Cleft lip and cleft palate are types of cranio-facial anomalies and comprise the fourth most common birth defects in the United States. One of every 700 newborns is affected by cleft lip and/or cleft palate.

A cleft lip is a separation of the two sides of the lip. The separation often includes the bones of the upper jaw and/or upper gum. A cleft palate is an opening in the roof of the mouth in which the two sides of the palate did not fuse, or join together, as the unborn baby was developing. Cleft lip and cleft palate can occur on one side (unilateral cleft lip and/or palate), or on both sides (bilateral cleft lip and/or palate). Because the lip and the palate develop separately, it is possible for the child to have a cleft lip, a cleft palate, or both cleft lip and cleft palate.

Cleft lip and cleft palate are congenital defects, or birth defects, which occur very early in pregnancy. The majority of clefts appear to be due to a combination of genetics and environmental factors. The risks of recurrence of a cleft condition are dependent upon many factors, including the number of affected persons in the family, the closeness of affected relatives, the race and sex of all affected persons, and the severity of the clefts.

A child born with a cleft or other cranio-facial anomaly frequently requires several different types of services, e.g., surgery, dental/orthodontic care, and speech therapy, all of which need to be provided in a coordinated manner over a period of years. This coordinated care is provided by interdisciplinary teams comprised of professionals from a variety of health care disciplines who work together on the child's total rehabilitation.

Current Florida law (ss. 627.641, 627.6575, and 641.31(9), F.S.) requires that health insurance benefits applicable for children will be payable with respect to a newborn child of the certificate holder, subscriber, or covered family member from the moment of birth. However, the coverage for a newborn child of a covered family member of the certificate holder or subscriber terminates 18 months after the birth of the newborn child.

The coverage for newborn children required by these statutes consists of coverage for injury or sickness, including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity.

In 1996, legislation was adopted relating to diagnostic or surgical procedures involving bones or joints of the jaw and facial region (see ch. 96-361, L.O.F., codified in ss. 627.419(7), 627.65735, 641.3109, and 641.428, F.S.). The law requires that any insurance policy, health care services plan, out-of-state group plan, group plan, or health maintenance organization contract that provides coverage for a diagnostic or surgical procedure involving bones or joints of the skeleton may not discriminate against coverage for similar procedures that involve bones or joints of the jaw and facial region if

the procedure is medically necessary to treat a congenital condition or a developmental deformity.

B. EFFECT OF PROPOSED CHANGES:

Individual, group, and small group insurance policies, and all health maintenance organization (HMO) plans will provide comprehensive treatment and therapy for covered children with cleft lip and/or cleft palate. The cost of these additional benefits will be passed on to the purchasers of these insurance policies and health maintenance contracts through increased premiums.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill gives the Department of Insurance authority to enforce the requirements for coverage of care for cleft lip and cleft palate on insurance companies and HMOs.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Insurance companies and HMOs are obligated to provide coverage for these additional services.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

Insurance premiums may increase.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, through increased insurance premiums.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, it requires insurance policies and health maintenance contracts to cover additional services.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 627.64193, 627.6515, 627.66911, 627.6699, 641.31, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Creates s. 627.64193, F.S., to require an individual health insurance policy to provide coverage for a child under the age of 18 with a cleft lip or cleft palate. The insurer must cover medical, dental, speech therapy, audiology, and nutritional services but only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate.

Section 2. Amends s. 627.6515(2)(c), F.S., relating to out-of-state group health insurance coverage requirements, to specify that such group insurance contracts provide coverage for treatment of children under age 18 with cleft lip and cleft palate as specified in s. 627.66911, F.S., as created by section 3 of the bill.

Section 3. Creates s. 627.66911, F.S., to require a group health insurer to provide coverage for a child under the age of 18 with a cleft lip or cleft palate. The insurer must cover medical, dental, speech therapy, audiology, and nutritional services but only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate.

Section 4. Amends s. 627.6699 (12)(b), F.S., relating to small group health insurance coverage requirements, to specify that such group coverage contracts provide coverage for treatment of children under age 18 with cleft lip and cleft palate as specified in s. 627.66911, F.S., as created in section 3 of the bill.

Section 5. Adds a new subsection (34) to section 641.31, F.S., relating to HMO coverage requirements, to require an HMO to provide coverage for a child under the age of 18 with a cleft lip or cleft palate. The HMO must cover medical, dental, speech therapy, audiology, and nutritional services, but only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate.

Section 6. Specifies that the coverage requirements of the bill fulfill an important state interest.

Section 7. Indicates that the bill shall take effect October 1, 1998, and shall apply to policies and contracts issued or renewed on or after that date.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

According to staff of the Department of Management Services, enactment of this legislation may result in increased annual costs to the state employee health insurance program of \$500,000.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See item 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Insurance premiums will likely increase to cover the cost of these enhanced benefits.

2. Direct Private Sector Benefits:

Children with cleft lip or cleft palate who have health insurance may be provided expanded coverage for the treatment of these conditions.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Cleft lip/cleft palate affects an estimated one in 700 children and is associated with lifetime treatment costs of \$20,000 to \$100,000. Given there are approximately 190,000 births in Florida annually, the total number of newborns needing treatment in any one year approximates 270. Lifetime treatment costs for each age cohort would range from \$5.4 million to \$27 million. However, approximately half of these children should be eligible for Medicaid, Children's Medical Services, or a Title XXI program. In addition, most comprehensive health insurance policies already cover many of these services, including medical, dental, speech therapy, and mental health. It is questionable whether most existing health insurance policies cover genetic counseling or services by dietitians. Therefore, it is difficult to determine the actual additional costs which would result from the enactment of this legislation. Cost to the State Employee Insurance Program is estimated to be \$500,000 per year.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does require counties and municipalities to spend funds or to take an action requiring the expenditure of funds related to the provision of employee health benefits. However, one constitutional exemption applies in that all similarly situated persons are required to comply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

History of CS/HB 3105

10/02/97 H Prefiled

11/13/97 H Referred to Health Care Services (GSC); Financial Services (EIC);

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Health & Human Services Appropriations
03/03/98 H Introduced, referred to Health Care Services (GSC); Financial Services (EIC); Health & Human Services Appropriations -HJ 00013
03/05/98 H On Committee agenda-- Health Care Services (GSC), 03/11/98, 8:30 am, Morris Hall
03/11/98 H Comm. Action: CS by Health Care Services (GSC) -HJ 00244
03/17/98 H CS read first time on 03/17/98 -HJ 00241
03/13/98 H Now in Financial Services (EIC) -HJ 00244
03/24/98 H Withdrawn from Financial Services (EIC) -HJ 00314; Now in Health & Human Services Appropriations
04/20/98 H On Committee agenda-- Health & Human Services Appropriations, 04/21/98, 10:15 am, 317C
04/21/98 H Comm. Action:-Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations -HJ 00999
04/22/98 H In Government Services Council, pending ranking -HJ 00999
05/01/98 H Died in Government Services Council pending ranking

History of CS/SB 228

10/09/97 S Prefiled
10/24/97 S Referred to Health Care; Ways and Means
02/09/98 S On Committee agenda-- Health Care, 02/18/98, 2:30 pm, Room-EL --No meeting, lack of quorum
03/03/98 S Introduced, referred to Health Care; Ways and Means -SJ 00020; On Committee agenda-- Health Care, 02/18/98, 2:30 pm, Room-EL --No meeting, lack of quorum
03/26/98 S On Committee agenda-- Health Care, 03/31/98, 9:00 am, Room-EL
03/31/98 S Comm. Action: CS by Health Care -SJ 00375; CS read first time on 04/02/98 -SJ 00378
04/02/98 S Now in Ways and Means -SJ 00375
04/08/98 S Withdrawn from Ways and Means -SJ 00386; Placed on Calendar
04/17/98 S Placed on Special Order Calendar -SJ 00528
04/21/98 S Placed on Special Order Calendar -SJ 00528
04/22/98 S Placed on Special Order Calendar -SJ 00741; Read second time -SJ 00810; Amendment(s) adopted -SJ 00810; Amendment reconsidered -SJ 00812; Amendment pending -SJ 00812
04/23/98 S Placed on Special Order Calendar -SJ 00812; Pending amendment withdrawn -SJ 00835
04/24/98 S Read third time -SJ 00886; CS passed; YEAS 39 NAYS 0 -SJ 00886; Immediately certified -SJ 00886
04/24/98 H In Messages
04/29/98 H Received -HJ 01661; Read second and third times -HJ 01661; CS passed; YEAS 119 NAYS 0 -HJ 01661
04/29/98 S Ordered enrolled -SJ 01230
05/06/98 Signed by Officers and presented to Governor
05/21/98 Approved by Governor; Chapter No. 98-66

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute is substantially different from the original bill, in that the original bill creates s. 627.64193, F.S., which applies to all individual and group accident or health insurance policies, and all health maintenance organization (HMO) plans and which:

- Prohibits such plans from canceling or denying the issuance or renewal of a policy solely because the insured has a dependent child diagnosed as having a congenital cranio-facial anomaly.
- Prohibits such plans from denying coverage for any medical, dental, speech, mental health, or genetic counseling services performed by a licensed professional if the service is prescribed by a treating physician and the treating physician certifies the services are consequent to a congenital cranio-facial anomaly of a dependent child.

On April 21, 1998, the Health and Human Services Appropriations Committee passed one amendment which exempted the state group insurance program from the provisions of this legislation.

CS/SB 228 differs from CS/HB 3105 as follows. The Senate bill requires coverage for fewer services than the House bill (the Senate bill excludes coverage for mental health and genetic counseling). Also, the Senate bill does not contain the exemption for the state group insurance program.

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Michael P. Hansen

Michael P. Hansen

AS FURTHER REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Lynn S. Dixon

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FINAL RESEARCH PREPARED BY COMMITTEE ON HEALTH CARE SERVICES:

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Legislative Research Director:

Michael P. Hansen

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