

STORAGE NAME: h1649a.hcs

DATE: April 5, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 1649 (PCB GO 99-02)

RELATING TO: The Division of State Group Insurance

SPONSOR(S): Committee on Governmental Operations, Rep. Posey and others

COMPANION BILL(S): None

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

- (1) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
 - (2) HEALTH CARE SERVICES YEAS 14 NAYS 0
 - (3) INSURANCE
 - (4) GENERAL GOVERNMENT APPROPRIATIONS
 - (5) GENERAL APPROPRIATIONS
-

I. SUMMARY:

HB 1649 updates the statutes relating to the organizational structure of the Division of State Group Insurance, and clarifies and corrects cross references where necessary. It modifies enabling language to accurately reflect responsibilities of the Division of State Group Insurance. This bill updates language regarding state payment of premiums to incorporate recent changes to ss. 112.19, and 112.191, F.S., regarding law enforcement officers', correctional officers', correctional probation officers', and firefighters' death benefits.

This bill also removes the Director of the Division of State Group Insurance from membership on the Florida State Group Insurance Council and clarifies the division's role in providing staff support to the council. It further provides for the designation of Senior Management Service positions and for the exemption of the director and assistant director from the Career Service System under s. 110.205(2)(i), F.S.

This bill reiterates that state employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits and prospectively extends health insurance coverage at full premium cost to legislative members vested in the state retirement system who terminate their elected service after July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 110.123, F.S., provides that the Division of State Group Insurance is created within the Department of Management Services, to be headed by a director who shall be appointed by the Governor and confirmed by the Senate. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The director shall be a person qualified by training and experience to understand the problems and needs of state employees in the area of health care coverage and insurance issues. The director shall have training and experience in the field of health care reimbursement, insurance or self-insurance programs, and the administration of such programs in the public or private sector.

According to s. 110.123(3)(c), F.S., it is the intent of the Legislature to offer a comprehensive package of health insurance benefits for state employees which are provided in a cost efficient and prudent manner, and to allow state employees the option to choose benefit plans which best suit their individual needs. Therefore, the state group insurance program is established which may include the state group health insurance plan, health maintenance organization plans, group life insurance plans, group accidental death and dismemberment plans, and group disability insurance plans. Furthermore, the division is additionally authorized to establish and provide as part of the state group insurance program any other group insurance plans which are consistent with its responsibilities.

Section 110.12315, F.S., provides for requirements relating to the state employees' prescription drug program. Prescription drug coverage is provided through the state's contractor through participating community pharmacies and through a mail-order drug program. The prescription drug program for the State Employees' PPO plan is administered by Eckerd Health Services. Prior to 1998, the Division of State Group Insurance did not have an established formulary for drugs available through the pharmacy benefits program of the State Employees' PPO Plan. Pursuant to section 8 of the 1998-1999 General Appropriations Act, which directed the division to improve the management of the prescription drug program, the division expanded its Prior Authorization Program for certain drugs available through the program. The Prior Authorization Program requires the patient to undergo a trial of one or more cost-effective alternatives to the more expensive drug. If the patient tries the alternative and it is not effective or if the alternative is inappropriate for the patient, then the more expensive prescription will be authorized. Appeals are available when a prescription is not authorized.

According to the Division of State Group Insurance, the Prior Authorization Program was expanded as a partial response to rapidly increasing drug costs. For each of the last five fiscal years, the State PPO Plan drug benefit program has experienced significant cost increases. Since FY 1994-1995 costs have increased by \$36.4 million. Across the five year period, this is an average annual cost increase of 13.3%. In addition, as a result of an unprecedented number of new drugs entering the market, health plans, pharmacy benefit managers, and employee benefit consultants are projecting drug cost increases ranging from 18-25% per year for the next several years. On February 26, 1999, the Revenue Estimating Conference for the Health Insurance Trust Fund adopted a series of projections that include drug cost increases of 22% for FY 1999-2000 and 21% for FY 2000-2001.

B. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 20.22(5), F.S., providing for the Florida State Group Insurance Council within the Division of State Group Insurance to: provide that the director of the Division of State Group Insurance shall not be a member of the council, but shall assume responsibility for ensuring provision of administrative, analytical, and technical support to the council; establish that the division shall furnish assistance to the council as requested; prohibit the council or a member thereof from entering into the day-to-day operation of the Division of State Group Insurance; add termination of contracts to the list of activities which council members are prohibited from taking part in; and remove the provision currently prohibiting the council, or its members, from the "granting, denial, suspension, or revocation of any license or permit issued by the division."

Section 2. Amends s. 110.123, F.S., 1998 Supplement, relating to the state group insurance program to: amend the definition of "enrollee", which means all state officers and employees,

retired state officers and employees, and surviving spouses of deceased state officers and employees, to include terminated employees or individuals with continuation coverage; provide a definition of "health plan member" as inclusive of enrollees and dependents in both the state group health insurance plan or in a health maintenance organization plan; and provide a definition of "state-contracted HMO" to mean any health maintenance organization under contract with the division to participate in the state group insurance program.

Other revisions include: providing that the director and assistant director of the division shall be exempt from the Career Service System as provided under s. 110.205(2)(i), F.S.; providing that the director of the Division of State Group Insurance, as agency head, may designate as being exempt from the Career Service System a maximum of 10 positions determined by the director to have policy making or managerial responsibilities comparable to such positions; correcting certain references to the state group insurance program and division where required; providing that any state agency that employs a full-time law enforcement officer, correctional officer, correctional probation officer, or firefighter who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.19 or s. 112.191, F.S., shall pay the entire premium of the state group health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee subject to the conditions and limitations set forth in s. 112.19 or s. 112.191, as applicable; providing that state employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits; providing that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses; and providing grammatical and syntactical changes to a public records exemption governing the confidentiality of state group insurance records in subsection (9) of this section, but not expanding the exemption relative to the provisions contained in Art. I, s. 24(c), of the Florida Constitution.

Additional amendments to this section: clarify the authority of the division to use whatever procurement methods have been developed by DMS, if they are appropriate; broaden the scope of data the division can look at in selecting an HMO, while removing some factors that would be discriminatory in a selection process; remove the requirement that links the HMO Medicare rate to the state's PPO Medicare rate; delete the division's authority to negotiate with specialty hospitals since DSGI is a purchaser not a payer and does not want or need this authority; clarify the HMO reporting role; and authorize DMS involvement in the process of developing benefit plans directly with the unions since the old language supplanted DMS authority and the division needs DMS expertise at this time.

Section 3. Amends s. 110.12315, F.S., relating to the state group prescription drug program, to: delete existing statutory language specifying employee drug co-payments, and that authority is transferred to the General Appropriations Act or relevant implementing legislation; provide continuation of the current dispensing fee for retail pharmacies; provide continuation of a mail-order prescription drug program for program participants; provide for a uniform reimbursement rate for participating retail pharmacies; provide that participating pharmacies must maintain an on-line computer system to verify participant eligibility and must agree to make their records available for utilization review actions undertaken by the program; and provide division responsibilities for establishing reimbursement schedules for prescription pharmaceuticals and for implementing cost saving measures.

Section 4. Amends s. 110.1232, F.S., relating to health insurance coverage for certain retirees, providing technical nomenclature changes only.

Section 5. Amends s. 110.1234, F.S., relating to health insurance for retirees, changing "department" to "division."

Section 6. Amends s. 110.1238, F.S., relating to state group health insurance plans, deleting reference to an overcharge refund cap of \$1,000 per admission and replacing it with a maximum cap of \$1,000 which would allow for refund payments on any amounts recovered for overcharges on outpatient and physician services in addition to hospital admissions.

Section 7. Amends s. 110.161, F.S., relating to the state employees pretax benefits program, making technical and clarifying nomenclature changes.

Section 8. Amends s. 110.205(2)(i), F.S., relating to career service exemptions, exempting the assistant director of the Division of State Group Insurance and the assistant director of the Division of Retirement from the State Career Service System.

Section 9. Amends s. 121.025, F.S., relating to administrator powers and duties, exempting the director and assistant director of the Division of Retirement from the Career Service System and permitting the designation, by the director, of up to ten positions as exempt from career service based on their policy making and managerial responsibilities.

Section 10. Amends s. 215.94, F.S., cross-referencing to the new title of the Division of State Group Insurance with reference to the Cooperative Personnel Employment Subsystem (COPES).

Section 11. Provides an effective date of upon becoming law.

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?

No.

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

No.

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

This bill exempts a limited number of positions at the Division of State Group Insurance and the Division of Retirement from the career service system at the designation of the respective director based on their policy making and managerial responsibilities. If any of these positions are placed in the Senior Management Service there would be an annual increase in accrual of benefits from 1.6 to 2.0 percent. It is anticipated that any increased retirement contributions as a result of this action would be accomplished within current appropriations to these entities.

Allowing legislative members vested in the retirement system, who terminate their service after July 1, 1999, to purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses means the members will be paying the full premium cost for this coverage.

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?

No.

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?

Any legislative member who purchases coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses, as provided in this bill, will be paying the full premium cost of such coverage.

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

This bill does not purport 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?

No.

- 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:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 20.22, 110.123, 110.12315, 110.1232, 110.1234, 110.1238, 110.161, 110.205, 121.025, and 215.94, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Please refer to section-by-section analysis under II.B., Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

This bill transfers from general law to the Appropriations Act the setting of employee co-payments for prescription drugs. The current levels, \$5 for generic drug prescription and \$15 per legend drug prescription, have not been changed for several years. Consultant reports from the William Mercer Company, under contract to the Division of State Group Insurance, have indicated that the effective freezing of these levels in statute has contributed to the significant overall financial difficulties sustained in the entire benefit plan in the recent past. Also of concern has been utilization of the benefit plan and disproportionate costs experienced in the mail-order drug component. This bill will allow the Division of State Group Insurance to better administer and manage the prescription drug component of the plan.

Annualized paid prescription experience for calendar year 1998 indicates the following:

Average state cost per claim	\$32.29
Average # of claims per enrollee per month	\$ 2.08 (rounded)
Calculated per enrollee cost per month	\$67.29

Beginning with Calendar Year 1999, utilization (measured by the average # of claims per enrollee) and costs (measured by the average state cost per claim) will increase 6.5 percent and 10 percent, respectively, annually.

1999

\$ 35.52 Average state cost per claim
2.22 Average number of claims per enrollee
\$ 78.82 Calculated per enrollee per month state cost

2000

\$ 39.07 Average state cost per claim
2.36 Average number of claims per enrollee
\$ 92.34 Calculated per enrollee per month state cost

The authority to allow the Division of State Group Insurance and the Division of Retirement to designate up to 10 positions as exempt from the career service system based upon policy making and managerial responsibilities is granted. Since the designation is discretionary with the agencies, it is not currently known exactly how many of these 10 positions will be designated Senior Management Service status. It is predicted that retirement contribution rates will decrease substantially and it may be possible for the affected agencies to assume any costs within existing budget authority.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds nor does it require them to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 5, 1999, the Committee on Health Care Services passed the following amendments:

Amendment #1 (sponsored by Rep. Sanderson): On page 20, line 19: This amendment terminates the state employee prescription drug prior authorization program expanded pursuant to s. 8 of the 1998-

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1999 General Appropriations Act, and provides that the division shall not implement a prior authorization program or restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond the provisions relating specifically to: generic equivalents; starter dose programs; or the dispensing of long-term maintenance medications.

Amendment #2 (sponsored by Rep. Posey): On page 24, between lines 4 and 5: This amendment modifies the duties for sponsoring agencies for child care programs, so that responsibilities for the maintenance, utilities, and other operating costs associated with the child care center are not limited to the "physical facility" of the child care center.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Amy K. Guinan

Phil E. Williams