

STORAGE NAME: h0811z.hcs
DATE: May 12, 1999

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

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
FINAL ANALYSIS**

BILL #: HB 811
RELATING TO: Child Protection Team Services
SPONSOR(S): Rep. Brown
COMPANION BILL(S): SB 2118 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) HEALTH CARE SERVICES YEAS 15 NAYS 0
(2) CHILDREN & FAMILIES (W/D)
(3) HEALTH & HUMAN SERVICES APPROPRIATIONS (W/D)
(4)
(5)

I. FINAL ACTION STATUS:

06/17/99 Approved by Governor; Chapter No. 99-369

II. SUMMARY:

HB 811 amends s. 39.202, F.S., 1998 Supplement, relating to the confidentiality and exemption from public disclosure of certain medical treatment information generated by Child Protection Teams of the Department of Health, to authorize the release of limited information for purposes of reimbursement by health plan payors. This authorization is provided to facilitate payment by health maintenance organizations and insurers to pediatricians and other health care providers under contract with the Department of Health who perform medical evaluations and diagnoses relating to suspected or alleged child abuse, abandonment, or neglect.

The bill's effective date is July 1, 1999.

The bill is not expected to have any direct fiscal impact on state or local government.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 39, F.S., governs proceedings relating to children. Part II of this chapter, consisting of ss. 39.39-39.418, F.S., relates specifically to child dependency cases. Section 39.303, F.S., 1998 Supplement, requires Children's Medical Services of the Department of Health to develop, maintain, and coordinate the services of Child Protection Teams in each of the service districts of the Department of Children and Family Services. These teams provide diagnosis and evaluation of children alleged to be abused. To provide these services, the teams utilize numerous private providers who receive referrals on an on-call basis around the clock. Diagnosis and evaluation of abuse and neglect is time sensitive and must be completed without delay.

Section 39.202, F.S., provides for the confidentiality of reports and records in cases of child abuse or neglect. In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, this section declares *all records* held by the Department of Children and Family Services concerning reports of child abuse or neglect, including reports made to the central abuse hotline and *all records* generated as a result of such reports confidential and exempt from the Public Records Law, s. 119.07(1), F.S., 1998 Supplement. The exemption is extended to apply to *information* in the possession of any of the 15 classes of persons or entities granted access under this section. The contents of such records may only be disclosed as specifically authorized under ch. 39, F.S.

Subsection 39.202(5), F.S., 1998 Supplement, makes confidential and exempts from the Public Records Law and from s. 455.667, F.S., 1998 Supplement, providing for ownership and control of patient records, *all records and reports* of the Child Protection Teams of the Department of Health. Such records and reports may not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court. A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is guilty of a second degree misdemeanor.

Health maintenance organizations and other payors for health care services are not among the authorized classes of entities specified in s. 39.202, F.S., 1998 Supplement, that may receive information about child abuse, abandonment, or neglect cases. Therefore, the Department of Health Child Protection Teams may not disclose any information relating to its screening, diagnostic, evaluative, or treatment services to HMOs or insurers when claims for reimbursement of services are submitted to the parent's or guardian's HMO or insurer. Since the HMO's or insurer's gatekeeper had not referred the child for the services rendered by the Child Protection Team physician or other health care professional, claims for reimbursement are often denied, or such claims may be denied pending response to demands for additional information. Child Protection Team members are experiencing difficulty in receiving reimbursement when they submit claims to third-party payors for their services.

B. EFFECT OF PROPOSED CHANGES:

HB 811 would amend s. 39.202(5), F.S., 1998 Supplement, relating to the confidentiality and exemption from public disclosure of certain medical treatment information generated by Child Protection Teams of the Department of Health, to authorize the release of limited information for purposes of reimbursement by health plan payors.

The bill's effective date would be July 1, 1999.

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?

N/A

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?

N/A

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

The bill should have minimal, if any, impact on HMOs that may not have covered this service to date.

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?

No.

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?

No.

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:

Subsection 39.202(5), F.S., 1998 Supplement.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 39.202, F.S., 1998 Supplement, relating to the confidentiality and exemption from public disclosure of certain medical treatment information generated by Child Protection Teams of the Department of Health, to authorize the release of limited information for purposes of reimbursement by health plan payors.

Section 2. Provides for a July 1, 1999, effective date.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

The bill is an attempt to secure compensation from managed care or other third-party insurance payers for the services of the Child Protection Teams. Since the types of services rendered by the teams are basic services, such as physician screening and evaluation, and are already included in most managed care agreements, the bill serves only to authorize the release of information regarding such services that is otherwise confidential and exempt from disclosure, limited to that information needed for insurer and HMO reimbursement purposes. This should have little or no impact on the overall cost of services provided by insurance or managed care entities and minimum, if any, costs to the state.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

VI. COMMENTS:

While the bill as filed was intended to prohibit prior authorization by managed care entities as a means of ensuring managed care reimbursement for Child Protection Team services, Child Protection Team providers indicated that they are constrained from seeking such prior authorization due to the confidentiality requirements of ch. 39, F.S. As such, this bill as filed did not address this issue in any meaningful way. A more productive route to address that concern was to amend s. 39.202(5), F.S., 1998 Supplement, to authorize Child Protection Teams to share otherwise confidential and exempt client information with insurers and managed care entities for reimbursement purposes.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

When the Committee on Health Care Services heard this bill on April 5, 1999, the committee adopted a strike-everything amendment which:

- Deleted all reference to amendments to ss. 409.9122 and 641.31, F.S.; and
- Amended s. 39.202(5), F.S., 1998 Supplement, relating to the release of information by the Child Protection Teams that is otherwise confidential and exempt from public disclosure, to allow such information to be released to health plan payers, limited to that information used for insurance reimbursement purposes.

On April 21, 1999, the House passed the Health Care Services amendment to the bill on the floor.

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams