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: SB 84

SPONSOR: Senator Geller and others

SUBJECT: Health Insurance-Autism Spectrum Disorder

DATE: April 22, 2003 REVISED: 04/23/2003

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Deffenbaugh	BI	Favorable
2.			HC	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

Senate Bill 84 requires all health insurers and health maintenance organizations (HMOs) to provide coverage for autism spectrum disorder (ASD). "Autism spectrum disorder" is defined as "a neurobiological condition that includes autism, Asperger syndrome, and Rett's syndrome." A health insurer or HMO cannot exclude coverage when the referring physician prescribes various forms of treatment for ASD, including, but not limited to: therapeutic evaluations, speech therapy, occupational therapy, physical therapy, early intervention, applied behavioral analysis, and Lovaas behavioral therapy.

An insurer or HMO must apply to autism spectrum disorder the same terms and conditions that the entity applies to the treatment of other disorders. However, the insurer or HMO may confirm a diagnosis or review the appropriateness of the treatment prescribed. The bill states that this section does not affect the scope of licensure of any health care professional, or the right to reimbursement which is otherwise guaranteed to a health care provider.

The Legislature states that the act fulfills an important state interest. The act will take effect July 1, 2003.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Currently, the Florida Statutes do not mandate the treatment of autism spectrum disorder by health insurers or HMOs.

What is Autism?

Autism is a complex developmental disability that is likely the result of a neurological disorder that affects the functioning of the brain. The Center for Autism and Related Disabilities (CARD) at the University of South Florida defines autism as a lifelong neurological disability that affects an individual's ability to communicate, understand language, play, and socially interact with others. Autistics often have problems communicating with others through spoken language and non-verbal communication. Autism is classified as a developmental disability because it interferes with the typical rate and pattern of childhood development. The signs of autism usually appear in the form of developmental delays before a child turns 3 years old.

According to the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM-IV), published by the American Psychiatric Association, autism is classified as one of the pervasive developmental disorders, which is:

> "…Characterized by severe and pervasive impairments in several areas of development. This section contains autistic disorder, Rett's Disorder, Childhood Disintegrative Disorder, Asperger's Disorder, and Pervasive Developmental Disorder Not Otherwise Specified."

Autism is a spectrum disorder, meaning that autism can be manifested in a wide variety of combinations, from mild to severe. Thus, many different behaviors can indicate that a person should be diagnosed as autistic. The DSM-IV provides the following diagnostic criteria for autistic disorder:

A. A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3):

(1) Qualitative impairment in social interaction, as manifested by at least two of the following:

a. marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;
b. failure to develop peer relationships appropriate to developmental level;
c. a lack of spontaneous seeking to share enjoyment, interests or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest); or
d. a lack of social or emotional reciprocity.

2) Qualitative impairments in communication as manifested by at least one of the following:

a. delay in, or total lack of, development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);
b. in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;
c. stereotyped and repetitive use of language or idiosyncratic language; or

d. a lack of varied, spontaneous make-believe play or social initiative play appropriate to developmental level.

(3) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:

a. encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;
b. apparently inflexible adherence to specific, nonfunctional routines or rituals;
c. stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements); or
d. persistent preoccupation with parts of objects.

B. Delays or abnormal functioning in at least one of the following areas, with onset prior to age 3 years: (1) social interaction, (2) language, as used in social communication, or (3) symbolic or imaginative play.

C. The disturbance is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder.

Section 393.063(2), F.S., defines autism to mean " . . . a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests."

There are several conditions classified under the rubric of autism spectrum disorder by CARD and the National Institute of Mental Health (NIMH). Conditions such as Asperger's syndrome, Rett's syndrome, and pervasive developmental disorder-not otherwise specified (PDD-NOS) all produce symptoms that are similar to autism. The NIMH states that children with Asperger's disorder are similar to high-functioning children with autism in that their language and intelligence remain intact. However, like autistic children, persons with Arsperger's have repetitive behaviors, severe social problems, and clumsy movements. The symptoms of Arsperger's usually appear later in childhood than those of autism. The NIMH defines Rett's Disorder to mean a progressive brain disease that only affects females and, like autism, produces repetitive hand movements and leads to loss of language and social skills.

Treatment Approaches

Individuals with autism often share common treatment needs. Autistics usually have difficulties with speech and language, thus necessitating varying degrees of speech therapy. Occupational and physical therapy may also be helpful in improving social and functional abilities. Intensive behavioral programs, varying in intensity and structure based on individual need, are universally recognized as essential in assisting people with autism to develop critical social and functional skills. Early intervention is important for children. Interventions that occur during this critical period in a child's development have been documented to significantly increase a child's skills and capacities for life-long learning (Agency for Health Care Administration).

The Center for Autism and Related Disabilities provided the following information concerning the application of speech-language therapy, occupational therapy, and physical therapy for individuals with autism:

1. Speech-Language Therapy: People with autism usually have delays in communication. Speech therapists look for a system of communication that will work for an individual with autism and may consider alternatives to the spoken word such as signing, typing, or a picture board with words.
2. Occupational Therapy: Commonly this therapy focuses on improving fine motor skills, such as brushing teeth, feeding, and writing, or sensory motor skills that include balance, awareness of body position, and touch.
3. Physical Therapy: This therapy specializes in developing strength, coordination, and movement.

According to NIMH, a number of treatment approaches have evolved in the decades since autism was first identified. These approaches include developmental, behaviorist, and nonstandard. Developmental approaches provide consistency and structure along with appropriate levels of stimulation.

Behaviorist training approaches are based on rewarding individuals for a certain type of behavior. Dr. Ivar Lovaas pioneered the use of behaviorist methods for children with autism more than 25 years ago. Lovaas therapy involves time-intensive, highly structured, repetitive sequences in which a child is given a command and rewarded each time he responds correctly. Using this approach for up to 40 hours a week, some children may be brought to the point of near-normal behavior. Others are much less responsive to the treatment. However, some researchers and therapists believe that less intensive treatments, particularly those begun early in a child's life, may be more efficient and just as effective.

State-funded Coverage for the Treatment of Autism

The Florida State Employees' Preferred Provider Organization (PPO) and the Health Maintenance Organization (HMO) provide coverage for the diagnosis and limited medical treatment (including prescription drugs), for autism, Asperger syndrome, Rett's syndrome, and pervasive developmental disorder. However, the PPO specifically excludes coverage for speech and occupational therapies and the HMO excludes occupational therapy, except as part of a preapproved home health treatment plan. Also, the PPO and the HMO generally exclude coverage for experimental or investigational treatments, custodial care, non-prescription drugs, and training and educational services (except for diabetes self-management training and educational services, pursuant to s. 627.6408, F.S.)

State Employees' PPO Plan

According to the Division of State Group Insurance, the PPO Plan provides treatment for mental and nervous disorders, subject to the following limitations:

a. inpatient services provided by a network hospital, specialty institution, residential facility, or any other facility are limited to 31 days per calendar year;

b. inpatient services provided by a non-network facility are only available to the active employee (if such services are requested by the employing agency and approved by the Division of State Group Insurance) and are limited to the same 31 days per calendar year described above;
c. services rendered by a licensed psychologist or a licensed mental health professional, as defined in s. 490.003, F.S., are covered when providing medically necessary covered services; and
d. outpatient services provided by a specialty institution are only available for substance abuse.

Physical therapy coverage is limited to four modalities per treatment day and 21 treatment days during any 6-month period.

State Contracted HMO Plan
For the State Employees' HMO contract, treatment for mental and nervous disorders are considered covered benefits, if provided to the covered person by a licensed mental health provider, subject to the following limitations:

a. inpatient confinement in a hospital, specialty institution, or residential facility for the treatment of a mental or nervous disorder, if authorized by the HMO. Coverage includes visits from licensed mental health providers during confinement. Coverage is limited to up to 31 days per calendar year; and
b. outpatient treatment rendered by a licensed mental health provider and medical doctors licensed under chapter 458, F.S., and doctors of osteopathy licensed under chapter 459, F.S., for a mental and nervous disorder, including diagnostic evaluation and psychiatric treatment, individual therapy, and group therapy. Coverage is limited to 26 visits per calendar year.

For State contracted HMOs, mental and nervous disorders treatment is *not a covered benefit* if:

a. rendered in connection with a condition not classified in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;
b. the treatment is extended beyond the period necessary for evaluation and diagnosis of learning and behavioral disabilities or for mental retardation;
c. for marriage counseling;
d. court ordered care/testing as a condition of parole or probation; or
e. for testing for aptitude, ability, intelligence or interest.

Also, under the State Employees HMO contract, rehabilitative services (including physical and speech therapy) are covered with limitations. The covered person's primary care physician or the HMO must specifically approve a written plan of treatment and agree that the covered person's condition should improve significantly within 60 days of the date therapy begins. Coverage includes services for the purpose of aiding in the restoration of normal physical function. Rehabilitative services provided while the covered person is hospital confined shall be covered for the duration of the hospital confinement. Outpatient rehabilitative services are limited to 60 visits per injury. Rehabilitative services do *not include*:

a. services or supplies provided to a covered person as an inpatient in a hospital or other facility, where the admission is primarily to provide rehabilitative services;
b. services or supplies that maintain rather than improve a level of physical function, or where it has been determined that the services shall not result in significant improvement in the covered person's condition within a 60-day period; or
c. other therapy types including recreational, educational, marital, or sleep therapy.

Private Sector Coverage of Autism

Many insurance carriers specifically exclude autism spectrum disorder from being covered for speech and language therapy and occupational therapy, even though the defining symptoms are ones of neurologically-based communication, movement, and sensory integration problems. However, these same symptoms in an individual who has received specific traumatic injury to the brain (e.g., car accident, blow to the head, stroke) may be covered, according to information compiled by CARD of the University of South Florida.

Some carriers have indicated that coverage is provided for prescription drugs; however, other types of benefits (i.e., physical therapy, occupational therapy) may or may not be covered, contingent upon the symptoms of the patient. Other plans exclude developmental disorders (autism and mental retardation).

Health Insurance Mandates for Autism in Other States

Some states require coverage for autism through specific mandates or through inclusion of coverage through mental health parity laws. In 1998, Kentucky provided for mandated coverage for the treatment of autism for children, 2-21 years of age, covered under a health benefit plan. The legislation specifically required coverage for therapeutic respite and rehabilitative care. Coverage for autism is subject to a $500 maximum benefit per month, per covered child. This limit does not apply to other health conditions of the child and services for the child not related to the treatment of autism. The definition of autism tracks the DSM-IV definition of autism.

Connecticut, Maine, Missouri, New Hampshire, and Texas provide coverage for autism through their mental health parity laws. In 1995, New Hampshire required coverage for autism that is no less extensive than coverage for physical illnesses and the mandate applies to group policies and HMOs, regardless of size. Maine enacted legislation in 1995 that included coverage for autism in group contracts that is no less extensive than medical treatment for physical illnesses and excludes groups of 20 or fewer employees. In 1997, Connecticut enacted a mental illness parity law that specifically included coverage for autism that would be equal to coverage provided for medical or surgical conditions. In 1997, Missouri required managed care plans to provide coverage for all disorders defined in the DSM-IV manual equal to physical illness. Further, in 1998, Texas required coverage for pervasive developmental disorder for up to 50 outpatient visits and 45 inpatient days annually.

III. Effect of Proposed Changes:

Section 1 of Senate Bill 84 requires all health insurers and health maintenance organizations (HMOs) to provide coverage for autism spectrum disorder (ASD). "Autism spectrum disorder" is

defined as "a neurobiological condition that includes autism, Asperger syndrome, and Rett's syndrome." A health insurer or HMO cannot exclude coverage when the referring physician prescribes various forms of treatment for ASD, including, but not limited to: therapeutic evaluations, speech therapy, occupational therapy, physical therapy, early intervention, applied behavioral analysis, and Lovaas behavioral therapy.

An insurer or HMO must apply to autism spectrum disorder the same terms and conditions that the entity applies to the treatment of other disorders. However, the insurer or HMO may confirm a diagnosis or review the appropriateness of the treatment prescribed. The does not affect the scope of licensure of any health care professional, or the right to reimbursement which is otherwise guaranteed to a health care provider.

Section 2 indicates that the Legislature finds that the provisions of this act fulfill an important state interest.

Section 3 states that the act will take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since this bill requires the state and local governments to incur expenses, i.e., to pay additional health insurance costs, the bill falls within the purview of Article VII, Section 18 of the Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met. One of the specified constitutional exemptions is for bills that fulfill an important state interest. The bill includes an express legislative finding to this effect.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides for an effective date of July 1, 2003; however, this provision may be an unconstitutional impairment of contract to apply the bill's provisions to policies that are already in effect. Therefore, the bill may be interpreted as applying only to policies issued or renewed on or after the effective date.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The implementation of the bill would expand and improve the treatment of persons with autism spectrum disorder. According to the National Alliance for Autism Research, ". . . the cost of a residential school or institution, such as a developmental center, is approximately $80,000 to $100,000 or more per individual per year and the cost of appropriate educational programs for school-age children with autism is often $30,000 per year or more."

The addition of another health services mandate is likely to increase the cost of health insurance for certain insurance policy holders. To the extent that private sector entities provide health insurance to their employees, the bill may cause health insurance costs to increase. Since the bill would place an additional mandate on employer-sponsored health insurance plans, it may increase the number of employers who will opt out of insurance and establish self-insurance plans (ERISA plans) that are exempt from state mandates. According to the U.S. General Accounting Office, approximately 44 percent of the U.S. population is covered by ERISA plans (Employer-Based Health Plans, July 1995).

The following calculation (using pre-2001 statistics) provides the estimated number of insured individuals impacted by the bill in Florida.

Estimated Insured Population Impacted (Low Autism Incidence Estimates)

Estimated Incidence Rate in Florida: Ages 0-21 (using Dept. of Education numbers): Ages 22+ (based on incidence rate of 15:10,000 and est. population of 11,073,576 in this age group): **Total Estimated Number of Individuals In Florida With Autism:**	 4,004 16,605 **20,609**
Less 26.7 percent of the U.S. population participating in any government plan, such as military, Medicare, or Medicaid (U.S. Census Bureau, Current Population Survey, March 1999):	-5,438
Less ERISA population (44 percent of estimated U.S. population):	-8,961
Less uninsured (estimated 17.5 percent of Florida's 1998 population, U.S. Census Bureau):	-3,564
Total estimated insured population impacted in Florida:	**2,646**

It should be noted that the Autism Society of America, using statistics from the National Institutes of Health (2001), and the Centers of Disease Control and Prevention (2001), estimates that autism occurs in 1 of 250 births. If these numbers are correct, then there is a far greater number of autistic children in Florida who will be impacted by this bill.

Estimated Insured Population Impacted (High Autism Incidence Estimates)

Estimated Incidence Rate in Florida: Ages 0-21 (using Dept. of Education numbers): Ages 22+ (based on incidence rate of 1:250 and est. population of 11,073,576 in this age group): **Total Estimated Number of Individuals In Florida With Autism**	 4,004 44,294 **48,298**
Less than 26.7% of the U.S. population participating in any government plan, such as military, Medicare, or Medicaid (U.S. Census Bureau, Current Population Survey, March 1999):	-12,896
Less ERISA population (44% of estimated U.S. population):	-19,491
Less uninsured (estimated 17.5% of Florida's 1998 population, U.S. Census Bureau):	-8,452
Total estimated insured population impacted in Florida:	**7,459**

Estimated Costs for Services

The Medicaid Office of the Agency for Health Care Administration provided the following cost model for a 4-year-old child, who is primarily nonverbal and is residing at home and spending much of his or her day engaged in ritualistic and self-stimulatory activities. The child is assumed to have no active medical problems and no physical limitations. The child attends pre-Kindergarten program in an Exceptional Student program. Costs are calculated based on standard Medicaid rates or current known charges for services not currently covered by Medicaid.

Needs
Speech-language therapy: 3 hours per week
Occupational therapy: 2 hours per week
Discrete Trial Therapy (Lovaas method): 40 hours per week

Resources
Pre-Kindergarten provides 1 hour per week of speech therapy and occupational therapy. Parents are available and willing to learn the Lovaas method. For children receiving services in a school-based setting, 40 hours will not be available after subtracting hours for the school day, sleep, etc. Parent training and implementation are an integral part of the Lovaas method.

Projected Services

Service	Units	Unit Cost*	Annual Cost
Speech Therapy			
Initial evaluation	1 annually	$48.50	$48.50
Reevaluation	Every 6 months	48.50	97.00
Ongoing Speech Therapy	2 hours per week (8 sessions per week)	16.97/session	7,060

Occupational Therapy Initial Evaluation Reevaluation Ongoing Occupational Therapy	1 annually Every 6 months 1 hour per week (4 sessions per week)	$48.50 48.50 16.97/session	$48.50 97.00 3,530
Discrete Trial Therapy Evaluation/Reevaluation*	1 hour monthly	$130.00	$1,560
Ongoing Discrete Trial Therapy	20 hours per week	$37.50/hour	$39,000
Total Estimated Annual Cost			**$51,441**

*Therapy rates are based on maximum allowable Medicaid fee. Discrete trail therapy rates are based on fees reported by a parent of a child receiving services at the Dan Marino Center.

An estimated 472 insured children, ages 0-21, would be provided coverage for autism. This represents an annual estimated cost of $24,280,152. (The number of children was derived by using the DOE number of children presently being provided services, less the estimated number of individuals provided services through governmental plans, less the estimated uninsured, and less the estimated population in ERISA plans).

During calendar year 1997, claims payments for indemnity and HMOs totaled approximately $9.1 billion. The estimated increase in costs for covering children (ages 0-21), $22.8 million represents approximately 0.25 percent of the total claims paid for 1997.

Due to uncertainty in the types and intensity of treatments for adults, committee staff was unable to estimate the cost impact for providing coverage for the adult population with autism.

C. Government Sector Impact:

If the State Employees' Group Health Insurance Program were required to provide currently not available treatment for individuals with autism spectrum disorder, the impact on State funds and the State Group Health Insurance Program for providing expanded coverage for persons with autism spectrum disorder is difficult to assess. There are no standard treatment plans from which to determine utilization or to price services.

There have been studies on treatment and service needs for children with autism, but it is not clear about the level of health care service utilization and costs for adults with autism. In addition, the Department has no information on how many dependents age 19 or older of subscribers of the State Group Health Insurance Program would qualify for the said

benefits if the Bill were enacted. Therefore, the estimates presented below are only for dependent children 18 or younger of subscribers of the Program.

The fiscal impact on State funds is estimated based on the following assumptions:

Low to medium estimates of autism incidence rate (provided by the National Information Center for Children and Youth with Disabilities) 5 to 15 children per 10,000 births;

2. High estimate of autism incidence rate (provided by Autism Society of America) 1 in 250 births;

3. Current dependent child enrollment
PPO: 49,533; HMO: 47,674;

4. Number of services needed:
15 hours of therapy per week for children age 4 or younger;
4 hours of therapy per week for children age 5 or older;

Cost per hour of therapy:
$50 (average of speech and occupational therapy; exact mix indeterminate)

Staff estimate that of the dependents covered under the State Group Health Insurance plans, the following numbers of children may be diagnosed with autism, assuming the incidence rates of our enrollee population is comparable to the rates provided by the National Information Center for Children and Youth with Disabilities and the American Society of Autism:

Estimated Autism Coverage Under State Group Health Insurance Plans				
	Age	5 Children per 10,000 Births	15 Children per 10,000 Births	1 Child per 250 Births
PPO Plan	0 - 4	4	13	34
	5 - 18	21	61	164
	Total	25	74	198
HMO Plans	0 - 4	5	16	42
	5 - 18	19	56	149
	Total	24	72	191

In total (HMO and PPO Plan participants combined), staff estimate that there are 49 (according to the low incidence rate) to 389 (according to the high incidence rate) children, age birth to 18 years, who may be diagnosed with autism spectrum disorders and may be the beneficiaries of the proposed benefit changes. The fiscal impact on state funds is then derived and shown in the following table:

Estimated Annual Fiscal Impact				
	Age	**Low**	**Medium**	**High**
PPO Plan	0 - 4	$167,778.00	$503,334.00	$1,342,224.00
	5 - 18	$212,830.80	$638,492.40	$1,702,646.40
	Total	**$380,608.80**	**$1,141,826.40**	**$3,044,970.40**
HMO Plans	0 - 4	$205,120.50	$615,361.50	$1,640,964.00
	5 - 18	$193,206.00	$579,618.00	$1,545,648.00
	Total	**$398,326.50**	**$1,194,979.50**	**$3,186,612.00**

As shown, the fiscal impact on state funds may range from **$380,608.80** to **$3,044,970.40** for the PPO Plan and **$398,326.50** to **$3,186,612.00** for the HMO plans.

As noted in the Effect of Proposed Changes Section of this document, additional member notification to all State Group Health Insurance Program enrollees of benefit changes would be needed. The notification would cost the Department **$51,192**. This non-recurring or start-up expenditures of $51,192 are estimated based on current health insurance enrollment of 165,134 and a production and bulk rate mailing cost of $0.31 per piece of mail.

The total fiscal impact to the State (the fiscal impact to the PPO Plan, the HMO plans, and the direct administrative cost combined), therefore, is estimated to be from $830,127 to $6,231,582.40.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 624.215, F.S., requires that any proposal for legislation that mandates a health benefit coverage must be submitted with a report to the Agency for Health Care Administration and the legislative committee having jurisdiction. The report must assess the social and financial impact of the proposed coverage. The Banking and Insurance Committee has not received a report for SB 84.

VIII. Amendments:

None.