

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: CS/SB 366

INTRODUCER: Banking and Insurance Committee and Senator Wilson

SUBJECT: Infant Eye Care

DATE: April 9, 2007

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|--------------------|-----------|------------------------|
| 1. | <u>Bedford</u> | <u>Wilson</u> | <u>HP</u> | Fav/1 amendment |
| 2. | <u>Johnson</u> | <u>Deffenbaugh</u> | <u>BI</u> | Fav/CS |
| 3. | _____ | _____ | <u>GA</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This committee substitute requires every baby born in a Florida hospital to receive an eye examination performed using an ophthalmoscope and dilation of the pupils for detection of pediatric congenital and ocular abnormalities, prior to being discharged from the hospital. The bill specifies that failure to comply with this requirement does not make a person guilty of a second-degree misdemeanor, which is the penalty for failure to comply with the requirement to instill a prophylactic in the eyes of a newborn.

The bill requires individual health insurance policies and health maintenance contracts to provide coverage for an eye examination performed using an ophthalmoscope and dilation of the pupils at birth, at 6 to 8 weeks of age, and at 6 to 9 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Presently, this type of dilated eye examination may not be covered as part of a routine screening by insurers or health maintenance organizations. Currently, the American Academy of Pediatrics does not include a dilated eye examination as part of its recommended routine eye examination for infants or children unless screening abnormalities or certain risk factors are present.

This bill amends ss. 383.04, 627.6416, and 641.31, Florida Statutes.

II. Present Situation:

Prophylactic Required for the Eyes of Infants

Section 383.04, F.S., specifies that: “Every physician, midwife, or other person in attendance at the birth of a child in the state is required to instill or have instilled into the eyes of the baby within 1 hour after birth an effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics for the prevention of neonatal ophthalmia. This section does not apply to cases where the parents file with the physician, midwife, or other person in attendance at the birth of a child written objections on account of religious beliefs contrary to the use of drugs. In such case the physician, midwife, or other person in attendance shall maintain a record that such measures were or were not employed and attach thereto any written objection.”

Ophthalmia is an infection of the conjunctiva, the mucous membrane that lines the inner surface of the eyelids and the forepart of the eyeball. The infection may be caused by *N. gonorrhoeae*, *C. trachomatis*, *S. aureus*, *E. coli*, and other micro-organisms. Complications of the infection can include corneal perforation, blindness, and dacryocystitis (inflammation of the lacrimal gland, the gland that secretes tears).

Recommended Eye Exams for Newborns

Currently, there is an examination of the newborn’s eyes in the newborn nursery. The examination includes a red reflex test.

The American Academy of Pediatrics’ (AAP) Policy Statement (May 2002) entitled *Red Reflex Examination in Infants*, recommends that eye exams of newborns and infants include an undilated examination of eyelids and orbits, external eye area, eye motility, eye muscle balance, pupils and red reflex. Additionally, the AAP recommends that infants at risk for eye problems, such as retinopathy or prematurity, or those with family histories of congenital cataracts, retinoblastoma, and metabolic and genetic diseases, should have ophthalmologic examinations within the first two months of birth. In addition, the AAP’s Policy Statement, *Eye Examination in Infants, Children, and Young Adults by Pediatricians* (April 2003), recommends that examination of the eyes be performed beginning in the newborn period and at all well-child visits. Newborns should be examined for ocular structural abnormalities, such as cataracts, corneal opacity, and ptosis, “which are known to result in visual problems.”

An *ophthalmoscope* is a diagnostic instrument that is used to shine a light into a patient’s eye. Light reflected from the patient’s eye and projected into the examiner’s eye enables the examiner to see the condition of the eye and to detect abnormalities. In the “red reflex” test that the AAP recommends for all newborns, a physician shines an ophthalmoscope into an infant’s eye and sees the red reflection of the blood vessels of the retina. If the red reflex is not visible, further examination would be necessary. The red reflex test is done with the pupil of the infant’s eye undilated. When the pupil is dilated—enlarged by the use of eye drops—the examiner is able to see more of the internal structure of the eye.

Currently, the American Academy of Ophthalmology (AAO) recommends at least one vision screening, consisting of red light reflex testing, be performed on an infant during the first 2 years. This test is used to diagnose serious ocular conditions, including retinoblastoma and

congenital cataract. Early diagnosis is essential to mitigate potential consequences of these conditions. Retinoblastoma is a relatively uncommon tumor of childhood that arises in the retina and accounts for about 3 percent of the cancers occurring in children younger than age 15. The estimated annual incidence is approximately 4 per million children. Although retinoblastoma may occur at any age, it most often occurs in younger children, usually before the age of 2. Ninety-five percent of cases are diagnosed before the age of 5.¹

Those with screening abnormalities, or who are considered high risk, are to be referred to an ophthalmologist, a medical doctor specializing in eye diseases and disorders, for further evaluation. Additional screening is recommended between 6 months to age one. The AAO recommends that an abnormal result of a red reflex examination should be followed by a red reflex examination preceded by pupil dilation. A licensed physician, advanced registered nurse practitioner under protocol of a physician, or a physician's assistant under protocol of a physician can also perform this procedure.

Health Insurance Coverage for Children

Sections 627.6416 and 627.6579, F.S., require individual and group health insurance policies to provide coverage for a member of a family to provide that benefits applicable for children will cover child health supervision services from birth to age 16. Child health supervision services are provided by a physician, or supervised by a physician, and they include a physical exam, a developmental assessment, and appropriate immunizations and laboratory tests. The periodic visits and services must be in accordance with the *Recommendations for Preventive Pediatric Health Care* published by the American Academy of Pediatrics. Section 641.31(30), F.S., requires a health maintenance contract that provides coverage for a member of a family to provide coverage for child health supervision services.

The Medicaid program currently pays for eye health care for recipients of all ages, provided through enrolled ophthalmologists and optometrists. Medicaid limits coverage for "screening" procedures, to those specifically authorized by law, (Child Health Check Up, newborn hearing screens, and adult health screens). As part of the Medicaid Child Health Check Up Coverage, vision screening must be assessed and documented as part of the comprehensive physical examination, with age appropriate testing to determine if the child's vision is within the normal range. Currently, eye examinations using an ophthalmoscope and dilation of the pupils are not usually done at birth, at 6 to 8 weeks of age, or 6 to 9 months of age unless there is an indication of the need for further ophthalmic assessment.

The Division of State Group Health Insurance, which administers the State Employee PPO Plan and HMO plan covers child health supervision services from birth to age 16, in accordance with prevailing medical standards consistent with the Recommendations for Preventive Pediatric Health Care of the AAP. These recommendations include that the following vision screening be performed at all well-visits for children starting in the newborn period to age 3: ocular history, vision assessment, external inspection of the eyes and lids, ocular motility assessment, pupil examination, and red reflex examination. For children age 3 to 5, the American Academy of Pediatrics recommends the aforementioned screening in addition to age-appropriate visual acuity

¹ National Cancer Institute website: www.cancer.gov.

measurement, and ophthalmoscopy. Medically necessary follow-up visits for covered conditions and diseases are covered.

III. Effect of Proposed Changes:

Section 1 amends s. 383.04, F.S., to require every baby born in a hospital to receive, prior to being discharged from the hospital, an eye examination performed using an ophthalmoscope as the light source and dilation of the pupils for detection of pediatric congenital and ocular abnormalities. This requirement is not subject to s. 383.07, F.S., which makes it a second-degree misdemeanor to violate the provisions of ss. 383.04-383.06, F.S. The bill also expands the ability for parents to opt out of newborns receiving eye examinations by written objection by not requiring the written objection to be on account of religious beliefs contrary to the use of drugs. Neither of the policy statements, relating to eye exams for infants and children and issued by the American Academy of Pediatrics, includes an dilated eye examination, as required by the bill, as part of the routine eye examination for infants or children.

Sections 2 and 3 amend ss. 627.6416, and s. 641.31, F.S., pertaining to individual health insurance coverage and HMO coverage, respectively, for child health supervision services, to require coverage for an eye examination performed using an ophthalmoscope and dilation of the pupils at birth, at 6 to 8 weeks of age, and at 6 to 9 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities. Neither of the Policy Statements, relating to eye exams for infants and children and issued by the American Academy of Pediatrics, includes a dilation examination, as required by the bill, as part of the routine eye examination for infants or children.

Section 4 provides that this act fulfills an important state interest.

Section 5 provides that the act will take effect July 1, 2007, and applies to policies and contracts issued or renewed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since the bill may require local governments to incur expenses to pay additional employee 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 action which requires the expenditure of funds unless certain specified exemptions or exceptions are met. The law is binding on counties and municipalities if the Legislature determines that the law fulfills an important state interest. This bill requires that similarly situated persons (private and public employee health care coverage) must provide coverage of infant eye examinations, and states that the act fulfills an important state interest.

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 would increase screening services available to newborns and infants up to age 9 months, possibly resulting in earlier identification and treatment of serious eye conditions that could otherwise result in blindness or death, and reduction in health care costs associated with those conditions.

The bill requires follow-up visits that may not be medically necessary and may also increase costs. These costs could ultimately be passed on to consumers having individual insurance coverage or HMO coverage in the forms of higher premiums.

The bill could have a fiscal impact on health insurers and HMOs by requiring them to provide coverage for a certain eye examinations and follow-up visits for covered infants for detection of pediatric congenital, ocular and developmental abnormalities, if such coverage is not currently provided. However, current guidelines provided by the American Academy of Pediatrics do not recommend the dilated eye examination as a routine examination. It is possible that some physicians and hospitals include the mandated eye examinations and tests in the newborn assessment; however, that is difficult to ascertain, because the newborn assessment can be billed as part of the mother's global maternity bill. The newborn assessment is not billed to the newborn and the mother's maternity bill is not billed with line item charges. There will be an estimated 123,684 non-Medicaid newborns in Florida for 2007, resulting in an estimated cost of \$11,164,063, using a \$41 fee for eye examinations.

The bill may also have an additional impact on providers, hospitals, midwives and others in attendance at the birth of a child in Florida. The bill will have a significant fiscal impact on those hospitals that have reached the Medicaid per diem cap since they would have to absorb the costs unless the costs would be an add-on to the current Medicaid per diem.

C. Government Sector Impact:

Office of Insurance Regulation

The Office of Insurance Regulation estimates that any increased workload associated with reviewing insurance filings to include the coverage required in this bill could be absorbed within current resources.

Department of Management Services

Some, but not all, of the required services are covered by the State Employees' Health Insurance plan, in accordance with prevailing medical standards consistent with the recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics. The specific examinations, tests, and frequency mandated in SB 366 are not currently recommended by the American Academy of Pediatrics as necessary or appropriate preventive services.

Any benefit changes occurring other than at the beginning of the State Employees' Health Insurance plan year (January 1) require the Department of Management Services to issue a Summary of Material Modifications to all enrollees resulting in increased mailing and printing costs of approximately \$67,860.

Department of Health

This bill would require review of premiums for Title XIX (Medicaid) and Title XXI (State Children's Health Insurance Program) recipients. The type of provider necessary to provide the recommended services will need to be determined before a cost analysis can be developed.

Children's Medical Services will be affected by this proposed legislation due to the increased number of referrals. The exact increase in the number of referrals for ongoing treatment cannot be determined at this time.

Agency for Health Care Administration

For Medicaid, the potential fiscal impact depends on the staff used to provide this service in the inpatient hospital setting. If hospital staff is able to perform this screening, Medicaid's per diem (daily reimbursement rate) may cover the screenings/exams with no additional funding. If physicians or optometrists were expected to come into the hospital to perform the screening, reimbursement would have to be set. The current fees for the least invasive examination for eye health are reimbursed at \$41.

Medicaid currently does not reimburse for the follow-up screenings mandated at 6 to 8 weeks and 6 to 9 months. Should a medical condition be identified through the screening process, then all follow-up treatment would be available through Medicaid. This bill would require Medicaid to pay for initial and follow-up screening visits that may not be medically necessary.

The estimated Medicaid costs for FY 2007-08 include \$5,277,939 for 135,167 screenings at birth, \$3,702,474 for 94,819 screenings at 6 to 8 weeks, and \$2,639,124 for 67,587

screenings at 6 to 9 months, if the screening is added on as another service not covered under the all-inclusive Medicaid hospital per diem rate.

If the service is included in the all-inclusive Medicaid hospital per diem rate and, assuming that the Medicaid per diem rate for hospitals that have reached the Medicaid per diem rate cap does not increase, most of the costs would have to be absorbed by those hospitals. However, the per diem rates for hospitals that have not reached the cap are expected to increase at a total cost to Medicaid of \$5,110,272. This cost would come from federal Medicaid funds (Medical Care Trust Fund) – 56.91 percent or \$2,908,256 and the other part would need to come from the General Revenue Fund – 43.09 percent or \$2,202,016.

The estimate for fiscal year 2008-09 is \$12,200,513 if it is added on as another service covered under the all-inclusive Medicaid hospital per diem rate. The cost to Medicaid assuming the cap factor of 43.98 percent would be \$5,365,786 with \$3,053,669 coming from the Medical Care Trust Fund and \$2,312,117 from the General Revenue Fund.

Local Governments

The bill could have an impact on county health department costs for those health departments that include well childcare in their provision of services. Costs associated with this bill are difficult to determine due to lack of definition of the type of provider necessary to provide eye examinations with dilation.

VI. Technical Deficiencies:

The legislation is applicable to individual and group HMO contracts by amending s. 641.31, F.S. However, by amending only s. 627.6416, F.S., applicable only to policies issued to individuals, the requirements of this bill would not be applicable to the large group health insurance under s. 627.6579, F.S., and small group insurance provided pursuant to s. 627.6699, F.S.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
