# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 833 Infant Eye Care
**SPONSOR(S):** L. Garcia and others
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 366, HB 171

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Committee on Health Innovation | | Ciccone | Calamas |
| 2) Healthcare Council | | | |
| 3) Policy & Budget Council | | | |
| 4) | | | |
| 5) | | | |

## SUMMARY ANALYSIS

House Bill 833 requires every baby born in a hospital to receive, prior to being discharged from the hospital; an eye examination performed using an ophthalmoscope and dilation of the pupils for detection of pediatric congenital and ocular abnormalities. 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.

An eye examination performed using an ophthalmoscope and dilation of the pupils can result in the early diagnosis of serious ocular conditions, including retinoblastoma and congenital cataract, in which early treatment is essential for future ocular and systemic health.

The bill requires health insurance policies, health maintenance contracts and Medicaid 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.

The bill has a fiscal impact.

The bill provides an effective date of July 1, 2007.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Limited Government** –The bill creates a new mandated health benefit for all babies born, and may require governments and private markets to incur expenses to pay additional employee health insurance costs.

**Empower families** – The bill empowers families by providing assurance that their baby's vision is healthy or an opportunity to intervene early to address an abnormality or disease uncovered as a result of the mandated procedure.

B. EFFECT OF PROPOSED CHANGES:

The bill requires every baby born in a hospital to receive, prior to being discharged from the hospital; an eye examination performed using an ophthalmoscope1 and dilation of the pupils for detection of pediatric congenital and ocular abnormalities. The bill requires health insurance policies, health maintenance contracts and Medicaid 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. Because this procedure is not generally covered, the bill could have a fiscal impact on private health insurers and Medicaid and county health departments.

Present Situation:

Florida law regarding eye exams for babies:
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[1]. This section does not apply to cases where the parents file with the physician, midwife, or other person in attendance at the birth of the 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 to any written objection." Penalties exist for violation of current requirements.[2]

Recommended Newborn Eye Exams
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.[3] 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*

[1] Ophthalmia is an infection of the conjunctivia, 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).
[2] See s. 383.07, F.S.
[3] In the red reflex test that the AAP recommends for all newborns, a physician shines an ophalmoscope into an undilated infant's eye and sees the red reflection of the retina's blood vessels. If the red reflex is not visible, further examination is necessary.

*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."

The American Academy of Ophthalmology (AAO) recommends vision screening consisting of red light reflex testing for all newborns. 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 one year of age. The AAO recommends that a pediatrician, family physician, nurse practitioner, or physician assistant conduct these screenings. 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.

<u>Health insurance coverage</u>
Section 627.6416, F.S., requires that health insurance policies providing coverage for a member of a family must provide that benefits cover child health supervision services from birth to age 16. Child health supervision services are either provided 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.

<u>Medicaid</u>
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). For eye health care, Medicaid recipients must present with a suspected illness, vision problem, or actual illness. 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. Eye examinations using an ophthalmoscope[4] 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.

<u>Health Insurance Mandates</u>
A health insurance mandate is a legal requirement that an insurance company or health plan cover services by particular health care providers, specific benefits, or specific patient groups. Florida currently has at least[5] 46 insurance mandates, ranking 8$^{th}$ highest in the nation for the number of mandates.[6] Those 46 mandates could add as much as 46 percent to the cost of health insurance in Florida.[7]

Florida enacted Section 624.215, F.S., in order to take into account the impact of insurance mandates on premiums when making policy decisions. That section requires that any proposal for legislation that

[4] 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.
[5] Depending on how liberally the term is defined, an alternate count indicates there are 51 health insurance mandates in Florida. "Expanding Opportunities for Health Insurance Coverage in Florida" 11, Michael Bond, Ph.D., James Madison Institute, *available at* http://www.jamesmadison.org/pdf/materials/548.pdf.
[6] "Health Insurance Mandates in the States 2007," Council for Affordable Health Insurance *available at* http://www.cahi.org/cahi_contents/resources/pdf/MandatesInTheStates2007.pdf.
[7] *Id*.

mandates health benefit coverage must be submitted with a report to AHCA and the legislative committee having jurisdiction. The report must assess the social and financial impact of the proposed coverage.

C. SECTION DIRECTORY:

Section 1. Amends s. 383.04, F.S.; relating to prophylactic required for eyes of infants.

Section 2. Amends s. 627.6416, F.S.; relating to coverage for child health supervision services.

Section 3. Amends s. 641.31 (30), F.S.; relating to health maintenance contracts.

Section 4. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

   Expenditures:

   Department of Health

   According to the Department of Health, there would be a fiscal impact on county health departments and Children's Medical Services—an incremental increase in the costs of supplies and an increase due to the time needed to administer and monitor the eye examination.

   Agency for Health Care Administration

   The Agency has not received the report required by Section 624.215, F.S. from the proponent of the bill.

   House Bill 833 would have a significant fiscal impact on those hospitals that have reached the Medicaid per diem cap since they have to absorb the cost unless the costs would be an add-on to the current Medicaid per diem. 56.02% of the hospitals are capped at either the Variable Target or the County Target so there would be no additional allowable Medicaid reimbursement for these services. 43.98% have not reached the targets and these hospitals would receive additional Medicaid reimbursement for providing these services.

   Assumptions:

   1. The current fee for the least invasive examination is set at $41.
   2. The estimated number of births to be covered by Medicaid for FY 2007-2008 is 128,730.
   3. Staffs other than hospital staff are required (pediatric ophthalmologist or optometrist) to perform part or all of the examination.
   4. Fewer children remain Medicaid eligible or access the care offered at 6-8 weeks and at 6-9 months.
   5. Projections for FY 2008-2009 were based on an estimated 5% increase in the number of births.

**Estimated Medicaid Costs (first year 2007-2008)**

| | |
|---|---|
| Newborn Screenings at Birth (135,167) | $5,277,939.00 |
| Screenings at 6-8 weeks ( 94,819) | $3,702,474.00 |
| Screenings at 6-9 months ( 67,587) | $2,639,124.00 |
| Annual Cost to Medicaid if per Diem Rate add on | $11,619,536.00 |
| Cost to Medicaid considering cap factor of 43.98% | **$5,110,272.00** |
| 56.91% needed from federal Medicaid funds (Medical Care Trust Fund) | $2,908,256.00 |
| 43.09% needed from General Revenue | $2,202,016.00 |

**Estimated Medicaid Costs (second year estimate 2008-2009)**

| | |
|---|---|
| Total 2nd Year Cost to Medicaid | $12,200,513.00 |
| Cost to Medicaid considering cap factor of 43.98% | **$5,365,786.00** |
| 56.91% needed from federal Medicaid funds (Medical Care Trust Fund) | $3,053,669.00 |
| 43.09% needed from General Revenue | $2,312,117.00 |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill would impact county health department costs for health departments that include well-child care in their provision of services.

   Office of Insurance Regulation

   According to the Office of Insurance Regulation in reviewing insurance filings and the Department of Management Services, Division of State Group Insurance the cost to cover eye examinations is indeterminate. It is noted that the cost to include infant eye examinations and subsequent treatment for abnormalities detected could increase the claims cost and could be passed through to policyholders in the form of increased premiums. Insurers will be required to make new form and rate filings for all affected policy forms and rates.

   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 cost of approximately $30,000. Additional costs would be incurred relating to printing, paper, envelopes, and other materials.[8]

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could have a fiscal impact on health insurers and HMOs by mandating them to provide coverage for a specific benefit, eye examinations, and follow-up visits for covered infants for detection of pediatric congenital and ocular and developmental abnormalities. The bill may also have an additional impact on providers, hospitals, midwives and others in attendance at the birth of a child in Florida; however, the fiscal impact is unknown. 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 in the form of higher premiums.

[8] Senate Bill 366 staff analysis, March 14, 2007.

The legislative committee having jurisdiction in the House has not received the report required by Section 624.215, F.S. from the proponent of the bill.

D. FISCAL COMMENTS:

The bill could also produce an undetermined cost savings. By increasing the screening services required to be performed at birth, 6 to 8 weeks of age, and at 6 to 9 months, the eye examinations mandated in the bill could result in earlier identification and treatment of serious eye conditions that could lead to blindness or other serious disease, and a subsequent reduction in the health care costs associated with those conditions.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, Section 18 of the Florida Constitution provides that cities and counties are not bound by general laws requiring them to spend funds. The law is binding on counties and municipalities if the Legislature determines that the law fulfills an important state interest.

The bill may require local governments to incur expenses to pay additional employee health insurance costs. As written, the bill does not state the law fulfils an important state interest; however if the Legislature amends this bill to make this finding, the bill must pass by a 2/3 vote of the membership in each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

## IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES