

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 572

INTRODUCER: Senator Baxley and others

SUBJECT: Insurance Coverage for Hearing Aids for Children

DATE: March 29, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Lloyd</u>	<u>Brown</u>	<u>HP</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 572 requires an individual market health insurance policy that provides coverage on an expense-incurred basis for a family member of the insured to provide coverage for children from birth through 21 years of age for hearing aids prescribed, fitted, and dispensed by a licensed audiologist. The bill requires an insurer to provide a minimum coverage amount of \$3,500 per ear within a 24-month period.

The bill provides that if a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period shall begin with full benefits and coverage.

The bill applies to a policy that is issued or renewed on or after January 1, 2020.

II. Present Situation:

Newborn Hearing Screening Program

Since October 1, 2000, Florida has had a universal newborn hearing screening program.¹ Unless a parent objects to the screening, all Florida-licensed facilities that provide maternity and newborn care are required to screen all newborns prior to discharge for the detection of hearing loss. All test results, including recommendations for any referrals or follow up evaluations from that screening by the licensed audiologist, a physician licensed under chs. 458 or 459, F.S., or other newborn hearing screening providers in the hospital facility, must be placed in the newborn's medical records within 24 hours after the completion of the screening procedure.² For

¹ See s. 383.145, F.S.

² Section 383.145(3)(e), F.S.

babies born in a facility other than a hospital, the parents are to be instructed on the importance of having a screening conducted, information must be provided, and assistance given to make an appointment within three months.³

The initial newborn screening and any necessary follow-up and evaluation are a covered insurance benefit that is reimbursable by Medicaid, health insurers, and health maintenance organizations with some limited exceptions.⁴ For those newborns and children found to have a permanent hearing loss, the statute also provides for referral to the state’s Part C program of the Individuals with Disabilities Education Act⁵ and Children’s Medical Services’ Early Intervention Program, Early Steps.⁶

The Department of Health also has a federal Health Resources and Services Administration (HRSA) grant which funds the salaries of four staff members, educational materials, and conference travel from April 1, 2017, through March 31, 2020.⁷ Some of the goals of the grant are to increase the number of children diagnosed at an early age and to increase early intervention.

The current screening baseline in Florida that the grant seeks to improve upon are:

Florida Newborn Screening Baseline and 2020 Goal⁸	
Baseline/Goal Year	Percent of Babies Diagnosed by 3 Months of Age
2014	44 Percent
2016	54 Percent
2020	57 Percent

To help achieve its targets, the HRSA grant has dedicated 25 percent of its funding to a parent support organization to develop a deaf mentorship program.⁹

Hearing Loss in Children

One in eight people in the United States (13 percent, or 30 million) aged 12 years or older has hearing loss in both ears, based on standard hearing examinations. About two or three out of every 1,000 children in the United States are born with a detectable level of hearing loss in one or both ears.

³ Section 383.145(3)(i), F.S.

⁴ Section 383.145(3)(j), F.S.

⁵ See Pub. Law No. 108-446. The federal Part C program provides benefits and services for infants and toddlers from birth to age 36 months. Florida’s Part C program is known as Early Steps and is administered by the Department of Health’s Children’s Medical Services.

⁶ The Early Steps program services infants and children from age birth to age 36 months with disabilities, developmental delays, or children with a physical or mental condition known to create a risk of a developmental delay. Children in the Early Steps program each have an individualized plan designed to meet their own unique needs and achieve their own milestones. See http://www.floridahealth.gov/AlternateSites/CMS-Kids/early_steps_directory/index.html (last visited March 27, 2019).

⁷ Florida Department of Health, *The Early Hearing Detection & Intervention Program Overview* (April 11, 2018) http://www.floridahealth.gov/AlternateSites/CMS-Kids/early_steps_directory/index.html (last visited March 27, 2019).

⁸ Florida Department of Health, *supra* note 7, slide 7.

⁹ Florida Department of Health, *supra* note 7, slide 26.

For 2016, Florida's newborn hearing screening rate was 97 percent with 218,376 infants screened.¹⁰ Of those screened, 287 were found to have total hearing loss.¹¹ Between 2005 and 2016, the national newborn screening programs have identified over 58,000 infants as either deaf or hard of hearing.¹²

Early detection of hearing loss can have an impact on an infant and child with learning and reaching developmental milestones, according to recent research. In the United States, researchers have reported that children have more favorable language outcomes, such as greater vocabulary and reading abilities, when hearing loss is identified sooner and the child receives hearing aids and interventions at an earlier age.¹³

A second article had a similar message noting that children who received hearing aids (HAs) and cochlear implants (CIs) earlier had better language outcomes, comparing language skills with the provision of a hearing aid at three months compared to 24 months.¹⁴ The authors state:

The younger the child received intervention, the better the language outcome. In addition, more substantial benefits of earlier access to useful HAs (hearing aids) and CI (cochlear implants) were obtained by those with worse hearing. Earlier intervening, rather than access to UNHS (universal newborn screening), improved outcomes.¹⁵

In both research articles, the findings were similar: the earlier the intervention, the larger the benefit to the child.

Mandated Health Insurance Coverages in Florida

Under the Patient Protection and Affordable Care Act, or PPACA,¹⁶ individuals and small businesses can shop for health insurance coverage on the federal Marketplace. All non-

¹⁰ Centers for Disease Control, *2016 CDC EHDI Hearing Screening & Follow Up Survey (HSFS)*, <https://www.cdc.gov/ncbddd/hearingloss/2016-data/02-2016-HSFS-Screen-h.pdf> (last visited March 27, 2019).

¹¹ Centers for Disease Control, *2016 CDC EHDI Hearing Screening & Follow Up Survey (HSFS) – Loss to Follow-Up/Loss to Documentation*, <https://www.cdc.gov/ncbddd/hearingloss/2016-data/09-2016-HSFS-EI-h.pdf> (last visited March 27, 2019).

¹² Centers for Disease Control, *Newborn Screening and Diagnosis*, <https://www.cdc.gov/ncbddd/hearingloss/data.html> (last visited March 27, 2019).

¹³ Christine Yoshinaga-Itano, Ph.D., et al, *Early Hearing Detection and Vocabulary of Children with Hearing Loss*, PEDIATRICS, (Aug. 2017, Vol. 140, No. 2), <https://pediatrics.aappublications.org/content/140/2/e20162964> (last visited March 27, 2019).

¹⁴ Teresa Y.C. Ching, Ph.D., *Age at Intervention for Permanent Hearing Loss and 5-Year Language Outcomes*, Pediatrics, (Sept. 2017, Vol. 140, Issue 3), <https://pediatrics.aappublications.org/content/140/3/e20164274> (last visited March 27, 2019).

¹⁵ Teresa Y.C. Ching, *supra* note 15, at 5.

¹⁶ H.R. 3590 – 111th Congress: Patient Protection and Affordable Care Act (March 27, 2009) <https://www.govtrack.us/congress/bills/111/hr3590> (last visited March 27, 2019).

grandfathered plans¹⁷ must include minimum essential coverage (MEC),¹⁸ including an array of services that includes the 10 essential health benefits (EHBs). These 10 EHBs are further clarified or modified each year through the federal rulemaking process and are open for public comment before taking effect. The 10 general categories for the EHBs are:

- Ambulatory services (outpatient care).
- Emergency services.
- Hospitalization (inpatient care)
- Maternity and newborn care.
- Mental health and substance abuse disorder services.
- Prescription drugs.
- Rehabilitative services and habilitative services and devices.
- Laboratory services.
- Preventive care and chronic disease management.
- Pediatric services, including oral and vision care.¹⁹

Under the PPACA, certain wellness and preventive services must be provided without any out-of-pocket charges to the insured patient and without regard to whether the insured has met any required annual deductible. The EHBs and other requirements relating to EHBs do not apply to large group plans, self-funded plans, or plans with grandfathered status. Starting with Plan Year 2020, which is effective January 1, 2020, a proposed rule would allow individuals to purchase a plan from outside of his or her home state's EHB benchmark.

Florida law requires health insurance policies to contain certain required benefits to meet the state's benchmark benefits. Additionally, the state has added at least 18 supplemental benefits to different policies. A few examples of those supplemental benefits include:

- Coverage for certain diagnostic and surgical procedures involving bones or joints of the jaw and facial region (s. 627.419(7), F.S.);
- Coverage for bone marrow transplants (s. 627.4236, F.S.);
- Coverage for certain cancer drugs (s. 627.4239, F.S.);
- Coverage for any service performed in an ambulatory surgical center (s. 627.6616, F.S.);
- Diabetes treatment services (s. 627.6408, F.S.);
- Osteoporosis (s. 627.6409, F.S.);
- Certain coverage for newborn children (s. 627.641, F.S.);
- Child health supervision services (s. 627.6416, F.S.);
- Certain coverages related to mastectomies (s. 627.6417, F.S.);
- Mammograms (s. 627.6418, F.S.); and
- Treatment of cleft lip and cleft palate in children (s. 627.64193, F.S.).

¹⁷ A "grandfathered health plan" are those health plans, both individual and employer plans, that maintain coverage that were in place prior to the passage of the PPACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the PPACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. *See* 26 U.S.C. 7805 and 26 CFR 54.9815-1251T.

¹⁸ To meet the individual responsibility provision of the PPACA statute, a benefit plan or coverage plan must be recognized as providing minimum essential coverage (MEC). Employer based coverage, Medicaid, Medicare, CHIP (i.e.: Florida KidCare), and TriCare would meet this requirement.

¹⁹ 42 U.S.C. section 18022.

Florida law does not require that health insurance policies cover hearing aids for adults or for children.

States are free to modify the EHBs that are offered in their states by adding coverage; however, because of concerns that federal funds would be used on costly mandated coverages that were not part of the required EHBs, PPACA contains a provision requiring that, starting in 2016, the states would have to pay for the cost of the coverage. As a result, Florida may be required to defray the costs of any additional benefits beyond the required EHBs put in place after 2011 when the EHBs were determined.²⁰ Florida has not enacted any mandated benefits since 2011.²¹

Hearing Aid Covering in Public Insurance Programs

Medicare

Traditional Medicare does not cover hearing aids or hearing exams. Some Medicare Advantage Plans offer hearing coverage.²²

Medicaid

For adults, Florida's Medicaid program covers hearing aids. For recipients who have moderate hearing loss or greater, the program includes the following services:

- One new, complete, (not refurbished) hearing aid device per ear, every 3 years, per recipient;
- Up to three pairs of ear molds per year, per recipient; and
- One fitting and dispensing service per ear, every 3 years, per recipient.²³

Medicaid also covers repairs and replacement of both Medicaid and non-Medicaid provided hearing aids, up to two hearing aid repairs every 366 days, after the 1-year warranty period has expired.²⁴

For children, Florida Medicaid covers services that are medically necessary to any eligible recipient under the age of 21 to correct or ameliorate a defect, condition, or a physical, or mental illness under the Early Periodic Screening and Diagnostic Testing (EPSDT) standard. Within this coverage standard, Medicaid recipients under the age of 21 receive all diagnostic services, treatment, equipment, supplies, and other measures that are described under Title 42 of the United States Code 1396d(a).²⁵ In addition to the coverage described above, Medicaid recipients under age 21 have coverage for the following relating to hearing services:

- For recipients who have documented, profound, severe hearing loss in one or both ears as follows:

²⁰ See 42 U.S.C. s. 18031(d)(3)(B)(ii).

²¹ Centers for Medicare and Medicaid Services, *Florida – State Required Benefits*, https://downloads.cms.gov/cciiio/State%20Required%20Benefits_FL.pdf (last visited March 27, 2019).

²² See <https://www.medicare.gov/coverage/hearing-aids> (last visited March 13, 2019).

²³ See Rule 54G-4.110, Florida Administrative Code. The hearing services coverage policy from the Agency for Health Care Administration is <https://www.flrules.org/Gateway/reference.asp?No=Ref-06744> (last visited March 13, 2019).

²⁴ See Rule 54G-4.110, Florida Administrative Code. The hearing services coverage policy from the Agency for Health Care Administration is <https://www.flrules.org/Gateway/reference.asp?No=Ref-06744> (last visited March 13, 2019).

²⁵ Agency for Health Care Administration, *Hearing Services Coverage Policy* (June 2016), http://ahca.myflorida.com/medicaid/review/specific_policy.shtml (last visited March 27, 2019).

- Implanted device for recipients age 5 years and older;
- Non-implanted soft band device for recipients under age 5.
- Cochlear implants for recipient age 12 months and older who have documented, profound to severe, bilateral sensorineural hearing loss.
- One hearing assessment every 3 years for the purposes of determining hearing aid candidacy and the most appropriate hearing aid.
- Up to two newborn screenings for recipients under the age of 12 months. A second screening may be conducted only if the recipient did not pass the test in one or both ears.
- Hearing screenings on the same date as a child health check-up.²⁶

These services in Medicaid are available to Medicaid recipients under the age of 21 without any copayments or other out of pocket charges.

Title XXI – Children’s Health Insurance Program²⁷

The Children’s Health Insurance Program (CHIP) was created in 1997 through the 1997 Federal Balanced Budget Act legislation and it enacted Title XXI of the Social Security Act as a joint state-federal funding partnership to provide health insurance to children in low to moderate income households.²⁸ The Florida Healthy Kids Corporation²⁹ is one component of the Florida’s Title XXI program known as Florida KidCare which was enacted by the Florida Legislature in 1998³⁰ and the only one which uses a non-Medicaid benefit package. The other program components, Medicaid for children, Medikids, and Children’s Medical Services Network, follow the Medicaid benefit package.³¹

Under s. 409.815(2)(a), F.S., Healthy Kids enrollees receive preventive health care services which include those well-child care services which are recommended in the Guidelines for Health Supervision of Children and Youth as developed by the American Academy of Pediatrics, including an annual hearing screening. Additionally, under s. 409.815(2)(h), F.S., describing the benefits for durable medical equipment, covered services include:

...equipment and devices that are medically indicated to assist in the treatment of a medical condition and specifically prescribed as medically necessary, with the following limitations:

...

3. Hearing aids shall be covered only when medically indicated to assist in the treatment of a medical condition.

The out of pocket costs for the well-child hearing screening and the provision of hearing aids are both \$0 for subsidized Title XXI eligible children.³² Healthy Kids also serves children who are not eligible for the subsidized coverage where the cost of services is offset with assistance from

²⁶ Agency for Health Care Administration, *supra* note 27.

²⁷ U.S.C. ss. 1397aa-1397mm, subchapter XXI, chapter 7, Title 42.

²⁸ The Balanced Budget Act of 1997, Pub. Law 105-33. 111 Stat. 251, enacted August 5, 1997.

²⁹ See 624.91-624.915, F.S.

³⁰ See ss. 409.810-409.821, F.S.

³¹ See s. 409.815(2)(a), F.S., and s. 391.0315, F.S.

³² Florida Healthy Kids Corporation, *Medical Benefits*, <https://www.healthykids.org/benefits/medical/> (last visited March 27, 2019).

federal and state government funds. For those who are enrolled in the “full pay” segment of Healthy Kids, the enrollee share includes a 25 percent co-insurance for the hearing aids.³³

Veterans Administration

The federal Veterans Administration provides hearing aids for veterans in some circumstances.^{34,35} To be eligible for hearing aids, a veteran must register first with the health administration section of the VA Medical Center of his or her choice and schedule an appointment for a clinical determination with an audiologist. If found clinically eligible, the hearing aids, repairs, and future batteries are made available at no future charge as long as the veteran remains eligible for health care services.³⁶

Insurance Coverage for Hearing Aids

According to the Office of Insurance Regulation, two of the nine carriers in the individual market have forms that cover hearing aids. Four of the fourteen carriers in the small group market have forms that cover hearing aids.³⁷

Twenty-four states appear to mandate health benefit plans to provide coverage for hearing aids for children.³⁸ Coverage requirements range from requiring a hearing aid every 24 months to every 5 years. Many states include caps on the amount the insurer must pay. These caps range from \$1,000 to \$4,000.³⁹

State Requirement for Impact Study

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, to submit to the Agency for Health Care Administration and the legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage. Proponents of SB 572 provided information to staff of the Senate Committee on Banking and Insurance relating to hearing loss in children, hearing aid insurance requirements in other states, and a projection of the number of children that will benefit from the bill, which does not include the statutorily-required report on the financial impacts of the proposed coverage.

³³ Florida Healthy Kids Corporation, *Draft Insurer Contract No.: 2018 300-01-00 Medical Services, Attachment A: Benefit Schedule*, pg. 2, <https://www.healthykids.org/documents/itm/20180807/Attachment1DraftContractwithAttachments.pdf> (released with Invitation to Negotiate 2018-300-01) (last visited March 27, 2019).

³⁴ See <https://www.military.com/benefits/veterans-health-care/va-health-care-hearing-aids.html> (last visited March 13, 2019).

³⁵ See https://www.myhealth.va.gov/mhv-portal-web/hearing-aids?_ga=2.237892288.1976680439.1552503778-1097040133.1552503778 (last visited March 13, 2019).

³⁶ U.S. Department of Veterans Affairs, *Rehabilitation and Prosthetic Services*, https://www.prosthetics.va.gov/psas/Hearing_Aids.asp (last visited March 27, 2019).

³⁷ Email from Office of Insurance Regulation staff to Committee staff dated March 18, 2019 (on file with the Committee on Banking and Insurance).

³⁸ See information gathered by the American Speech-Language-Hearing Association at https://www.asha.org/advocacy/state/issues/ha_reimbursement.htm and Florida Coalition for Spoken Languages, *The Florida Hearing Care for Children Act* (on file with the Committee on Banking and Insurance).

³⁹ See https://www.asha.org/advocacy/state/issues/ha_reimbursement.htm (last visited March 14, 2019).

III. Effect of Proposed Changes:

This bill amends s. 627.6413, F.S., to require an individual health insurance policy that provides coverage on an expense-incurred basis for a family member of the insured to provide coverage for children from birth through 21 years of age for hearing aids prescribed, fitted, and dispensed by a licensed audiologist.⁴⁰

The bill requires such a policy to provide a minimum coverage amount of \$3,500 per ear within a 24-month period. An insured is responsible for the cost of hearing aids and related services that exceed the coverage provided by his or her policy.

The bill provides that if a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period shall begin with full benefits and coverage.

The bill applies to a policy that is issued or renewed on or after January 1, 2020.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

⁴⁰ The bill would not cover hearing aids dispensed by hearing aid specialists licensed under ss. 484.0401-484.059, F.S.

B. Private Sector Impact:

The Florida Coalition for Spoken Languages estimated that 1,709 children would obtain hearing aids under SB 572. This would cost insurance companies \$11,662,204 in the first year, or \$5,831,102 over 2 years. The group did not provide an estimate on how many additional hearing aids would be needed due to significant hearing changes in some children.⁴¹

C. Government Sector Impact:

The federal PPACA may require Florida to assume the costs of additional benefits that it requires of insurance companies.⁴² The Office of Insurance Regulation reports that Florida may be required to defray the cost of any new mandate that raises the cost of subsidies paid by the federal government.⁴³

This bill does not directly impact the state group health insurance program.⁴⁴

VI. Technical Deficiencies:

The bill requires coverage for hearing aids for children; however, the term “hearing aid” is not defined. There are several different devices that are now used to assist a child with his or her hearing depending on the severity of the child’s deafness, the age of the child, or other medical conditions of the child. For example, does a “hearing aid” mean coverage towards a cochlear implant? As science and technology progress, other options could also be available that could be described as “hearing aids.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 627.6413 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

⁴¹ Florida Coalition for Spoken Languages, *The Florida Hearing Care for Children Act* (on file with the Committee on Banking and Insurance).

⁴² See 42 U.S.C. s. 18031(3)(B)(ii).

⁴³ 2019 Agency Bill Analysis SB 572 by the Office of Insurance Regulation (February 4, 2019) (on file with the Senate Committee on Banking and Insurance).

⁴⁴ Email from Department of Management Services to Committee Staff dated March 14, 2019 (on file with the Senate Committee on Banking and Insurance).

B. Amendments:

None.

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