

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 62

SPONSOR: Banking and Insurance Committee, Senator Thomas and others

SUBJECT: Bone Marrow Transplant Procedures

DATE: February 16, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 62 requires that health insurers and health maintenance organizations (HMOs) cover the costs associated with the donor patient to the same extent that the current law requires the insurer to cover costs associated with the insured for covered bone marrow transplant procedures for certain types of cancer.

This bill amends section 627.4236 of the Florida Statutes.

## II. Present Situation:

Present law (s. 627.4236, F.S.) prohibits an insurer or a HMO from using a policy exclusion for experimental, clinical investigative, educational, or similar treatments to exclude coverage for bone marrow transplant (BMT) procedures for cancer when such procedures are recommended by the referring physician and the treating physician and the particular use of the procedure is accepted within the appropriate oncological speciality and is determined by rule not to be experimental. The Agency for Health Care Administration (ACHA) has adopted a rule (10D-127.001, Florida Administrative Code) which specifies the particular malignancies for which the BMT procedure is acceptable (i.e., non-experimental) after consulting with an advisory panel of medical experts as required by the current law. The nine-member advisory panel must conduct, at least biennially, a review of scientific evidence to ensure that BMT procedures are based on current research findings and that insurance policies offer coverage for the latest medically acceptable BMT procedures.

Bone marrow transplantation is a highly technical therapy that offers hope to patients with bone marrow failure or various malignancies. It is the process of taking healthy bone marrow (blood stem cells) from a donor and transplanting (transfusing) it into a patient. The patient receives intensive chemotherapy and/or radiation therapy to destroy all cancerous cells in conjunction with the BMT procedure. Such transplants are accepted treatments for a variety of cancer types,

primarily leukemia, and including breast, ovarian, and lung cancer as well as Hodgkin's, non-Hodgkin's lymphoma, sarcoma and other non-cancerous hematological disorders.

There are two basic types of BMT procedures performed. Depending on the disease, blood stem cells can often be taken from the patient him/herself. This is known as *autologous* transplantation and there are obviously no separate donor costs involved because the insured is the donor. The second basic type of transplant, called *allogeneic* transplantation, uses stem cells collected from another person, either a related or unrelated donor with a closely matched tissue type. Persons undergoing allogeneic transplantation incur donor charges relating to the procurement of stem cells and possible search charges (depending upon whether the donor is a sibling or an unrelated donor) which may or may not be covered under their health policy.

According to the *Organ Transplant Program Utilization Summary* published by ACHA, approximately 2,068 BMT procedures were performed in Florida from 1993 to 1997. Sixty percent of the transplants were autologous, while 40 percent were allogeneic. Of the allogeneic procedures, 65 percent (26 percent of the total BMT's) involved a matched sibling and 35 percent (14 percent of the total BMT's) involved a matched unrelated donor. Shands Hospital at the University of Florida, along with the H. Lee Moffitt Cancer Center in Tampa and the University of Miami/Jackson Memorial Medical Center perform over 80 percent of all bone marrow transplants in the state. The average cost of a transplant ranges from \$100,000 to \$250,000, depending on whether the procedure is autologous or allogeneic.

Donors are a necessary part of all allogeneic bone marrow transplant procedures and such costs which involve searching for a donor and procuring or harvesting the donor blood stem material can amount to thousands of dollars. These donor related costs are not required to be covered under current law. Representatives with Shands Hospital estimate donor costs range between \$10,000 and \$30,000 and may be higher depending upon whether the donor is a sibling or an unrelated donor. (See Economic Impact and Fiscal Note below.) According to representatives with Shands Hospital, in 85 percent of their allogeneic BMT cases, donor search costs are covered by the patient's insurance. Additionally, once the donor is identified, the medical evaluation and bone marrow procurement procedure is covered by the patient's insurance in 90 percent to 95 percent of the cases.

The current law does not apply to a "standard" or a "basic" benefit plan that small group carriers must offer to small employers with 50 or fewer employees because s. 627.6699(15)(a), F.S., provides that unless a law is made *expressly applicable* to such plans, a law requiring coverage for a health care benefit does not apply to standard or basic benefit plans. However, current law applies to any major medical policy issued to a small employer that provides benefits different from the standard or basic policies. According to representatives with the Department of Insurance, the current standard group policy which was developed by a health benefit plan committee appointed by the Insurance Commissioner, does provide cancer coverage for both the patient and donor costs for several BMT procedures.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 627.4236, F.S., relating to bone marrow transplant (BMT) procedures, to mandate that cancer coverage for BMT procedures by an insurer or health maintenance

organization (HMO) must include the costs associated with the donor patient to the same extent and limitations as costs associated with the insured. This provision has the effect of expanding the mandated coverage for services associated with allogeneic bone marrow transplants to include donor patient costs. It would require each individual and group health insurance policy and HMO to provide such coverage. However, this would not apply to small group basic or standard health benefit plans issued under s. 627.6699, F.S., because paragraph (15)(a) of that section states that unless a law is made expressly applicable to such plans, any law requiring coverage for a health care benefit does not apply to standard or basic health plans.

It is unclear under the committee substitute whether “donor charges” include the costs associated with searching for a donor. The National Marrow Donor Program (NMDP), a Congressionally authorized bone marrow donor registry established to identify donors for patients who need allogeneic matched bone marrow transplants, maintains a national registry of approximately 3.8 million volunteers willing to be bone marrow donors. (See Economic Impact and Fiscal Note section below for estimates of search costs.)

**Section 2.** Makes a legislative finding that the provisions of the bill fulfill an important state interest. This has the effect of applying the bill’s requirements to local government health plans. (See Constitutional Issues, below.)

**Section 3.** Provides for an effective date of January 1, 2000.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The health insurance benefits required by this committee substitute would apply to local government health insurance plans. To the extent this bill requires 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 action which requires the expenditure of funds unless certain specified exemptions or exceptions are met.

This bill may qualify for the exemption for bills having an insignificant fiscal impact. See Economic Impact and Fiscal Note below.

An exemption would apply if a legislative determination is made that the bill fulfills an important state interest. The bill does contain a legislative finding to this effect.

##### **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:**

Individuals in need of a bone marrow transplant would have fewer out-of-pocket expenses and possibly a shorter waiting period for a BMT procedure if the donor costs are covered under their health insurance policies.

The Agency for Health Care Administration's hospital discharge data indicates that a total of 429 bone marrow transplants were performed in Florida in calendar year 1996 (the most recent complete year of information available). Of the 429 transplants, 294 were paid by commercial insurance, 118 were paid by the public sector, i.e., Medicaid, Medicare, and CHAMPUS, and 17 were self-pay. Of the 294 procedures paid by commercial insurance, it is estimated that 118 were allogeneic transplants which involved searching for a donor and the procurement of donor bone marrow. It is estimated that the total cost of coverage of these *donor related* costs associated with these 118 procedures would be \$2,231,000, or an average of \$18,907 per patient. This figure is based on the assumption that of the 118 allogeneic procedures, 77 involved siblings while 41 involved unrelated donors. The average sibling related donor cost was \$13,000 while the average costs for an unrelated donor was \$30,000, based on the information provided by Shands Hospital. (See chart below.)

Donor costs associated with BMT procedures are covered by many of the larger insurance companies and HMO's, however, sometimes the search costs are not covered. As reported by the Florida Association of Health Maintenance Organization's, the smaller plans do not routinely provide either donor coverage or donor search coverage. Staff contacted officials with several of the larger insurance companies and HMO's in Florida (Blue Cross/Blue Shield of Florida, Humana Health Insurance Company, Cigna, AvMed and HIP Health Plan) and these companies' HMO and PPO policies cover donor procurement charges once the donor is identified. Humana and HIP additionally cover all of the donor search costs under their HMO/PPO policies. Officials with Shands Hospital state that in 85 percent of their allogeneic BMT cases, donor search costs are covered by the patient's insurance. Additionally, once the donor is identified, the medical evaluation and bone marrow procurement procedure is covered by the patient's insurance in 90 percent to 95 percent of the cases. Therefore, the committee substitute's fiscal impact would appear to be relatively minor.

Shands Hospital has prepared an impact study in response to s. 624.215, F.S., which requires organizations seeking consideration of a legislative proposal that would mandate a health benefit to prepare a report to the legislative committee with jurisdiction over the proposal to assess its financial and social impact. The following chart, which is included in the study, estimates the charges associated with the donor search, the evaluation of the donor and the procurement of bone marrow for allogeneic sibling transplants and allogeneic matched unrelated transplants:

<b>Allogeneic Sibling Transplants</b>		<b>Allogeneic Matched Unrelated Donor Transplants</b>
		<b>Activation charge:\$700 (One time charge)</b>
<b>Search Charges: (per sibling)</b>	<b>\$500 - \$1,200</b>	<b>Search Charges:\$4,300 (Assuming 5 potential donors are tested)</b>
<b>Once Donor Identified: Donor Evaluation/ Procurement Charges</b>	<b>\$10,000 - \$15,000</b>	<b>Once Donor Identified:\$25,000 Donor Evaluation/ Procurement Charges</b>
<b>Total:</b>	<b>\$10,500 - \$16,200</b>	<b>Total: \$30,000</b>

Chart Source: Shands Hospital

C. Government Sector Impact:

Under the State Employees' Preferred Provider Organization (PPO) health insurance plan and its contracted HMO providers, donor costs associated with covered bone marrow transplant procedures are covered to the same extent and limitation as those costs associated with the insured. However, donor search costs are not covered and state officials estimate such costs to be \$19,775 for the state insurance program for the period of July 1, 1999, through June 30, 2000. This estimate is based on the fact that during 1998, the PPO plan paid for three allogeneic transplants (two were siblings and one an unrelated donor) and the average search costs were \$1,025 (per sibling) and \$7,837 (per unrelated donor). Assuming the PPO plan pays for the same number of related and unrelated transplants in 1999, such search costs would add approximately \$9,887 to plan costs. Lacking any information on the number of BMT procedures for HMO's, the state plan assumes that HMO donor search costs are similar. Thus, total fiscal impact is \$19,775 (\$9,887 x 2).

The committee substitute does not include the Medicaid program in its mandate and therefore does not create a fiscal impact for that program.

The Department of Insurance would have the responsibility to verify BMT donor coverage in all health insurance policies.

VI. Technical Deficiencies:

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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