

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: CS/SB 2330

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Wilson

SUBJECT: Infant Eye Care

DATE: April 12, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parham</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill 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. 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 and 383.06, F.S.

The bill requires 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.

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

The American Academy of Pediatrics’ 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.” Infants and children at high risk of eye problems should be referred for an exam by an ophthalmologist experienced in treating children. The situations that would indicate the need for a child to have an exam by an ophthalmologist include:

- Those who are very premature;
- Those with family histories of congenital cataracts, retinoblastoma, and metabolic or genetic diseases;
- Those who have significant developmental delay or neurologic difficulty; and
- Those with systemic diseases associated with eye abnormalities.

Currently, 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.

Health Insurance Coverage for Children

Section 627.6416, F.S., requires that health insurance policies providing coverage for a member of a family must 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 that benefits applicable for children will cover child health supervision services from the moment of 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.

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.

Florida Insurance Mandate Requirements

State laws frequently require private health insurance policies and health maintenance organization contracts to include specific coverage for particular treatments, conditions, persons, or providers. These are referred to as “mandated (health) benefits.”

Recognizing that “most mandated benefits contribute to the increasing cost of health insurance premiums,” while acknowledging the social and health benefits of many of the mandates, the Legislature in 1987 called for a “systematic review of current and proposed” mandated benefits. At that point, the Legislature had approved 16 mandated benefits. In the 13 years since, the Legislature has approved an additional 35 mandated benefits. With 51 mandated health benefits, Florida now has one of the nation’s most extensive sets of coverage requirements. A procedural requirement established for reviewing mandated benefits--that proponents submit an impact analysis for any proposed mandate benefit prior to consideration--is found in s. 624.215, F.S.¹

Although there has never been a study on the cumulative cost of mandated benefits in Florida, a 1998 Blue Cross/Blue Shield report studied the cumulative cost of mandated benefits in various states including Maryland (only Maryland had more mandates than Florida--47 at the time of the study, according to the report). According to the report, Maryland mandates are estimated to add 15.4 percent to the average monthly premium for a group policy. In Maine, 19 of its 31 mandates were found to increase premium costs on groups of 21 or more by just over 7 percent.

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

¹ House Committee on Insurance, Interim Project, “Managing Mandated Health Benefits: Policy Options for Consideration,” January 28, 2000.

the light source and dilation of the pupils for detection of pediatric congenital and ocular abnormalities. This section provides that the requirement does not apply 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.

Section 2. Amends s. 627.6416, F.S., pertaining to health insurers' coverage for child health supervision services, to require coverage for an eye examination performed using an ophthalmoscope and dilation of the pupils at birth, at 6-8 weeks of age, and at 6-9 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Section 3. Amends s. 641.31, F.S., pertaining to health maintenance contracts, to require coverage for an eye examination performed using an ophthalmoscope and dilation of the pupils at birth, at 6-8 weeks of age, and at 6-9 months of age, to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Section 4. Provides that the act shall take effect July 1, 2004.

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, but does not state that the act fulfills an important state interest.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

D. Other Constitutional Issues:

Article I, s. 10 of the State Constitution, prohibits laws impairing the obligation of contracts. The Supreme Court of Florida has held that laws cannot constitutionally be applied retroactively to insurance contracts in existence prior to the effective date of the legislation *Hassen v. State Farm Mutual Auto. Ins. Co.*, 674 So.2d 106 (Fla. 1996). That means that the respective laws in effect on the date of the policy at issue govern the

respective rights, obligations of the parties, time limits as to the policy contract and terms as to the filing of claims.

To the extent that the bill, effective July 1, 2004, applies new coverage requirements to all health insurance policies and health maintenance contracts in force on that date, the bill could impact obligations or rights under contract and could possibly be subject to constitutional challenge as being in violation of the prohibition against impairment of contracts. *Hassen v. State Farm Mutual Auto. Ins. Co.*, 674 So.2d 106 (Fla. 1996).

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill could have a fiscal impact on health insurers and HMOs by mandating them to provide coverage for a particular 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 forms of higher premiums.

C. Government Sector Impact:

Office of Insurance Regulation

The impact on the Office of Insurance Regulation in reviewing insurance filings and the Department of Management Services, Division of State Group Insurance to include the coverage of the eye exams required in this bill is indeterminate. Some but not all of the required services are covered by the State Employees' Health Insurance plan. 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 \$50,000. Additional costs would be incurred for printing, paper, envelopes, etc.

Department of Health

This bill would require review of premiums for Title XIX and XXI recipients. The type of provider necessary to provide the services would need to be determined, especially regarding dilation, as required by the bill, before a cost analysis could be developed.

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 staff from the hospital are 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 anticipated 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 \$39. Examinations occurring at a physician’s office (through 9 months of age) may be covered under the billing for the office visit as prescribed in the Child Health Checkup Handbook. The costs for FY 2004-2005 are listed in the table below, based on the following assumptions:

- The current fee for the least invasive examination is reimbursed at \$39;
- The number of births covered by Medicaid for FY 2004-2005 is 111,021;
- Staff other than hospital staff are required (pediatric ophthalmologist or optometrist) to perform at least part or all of the examination; and
- Fewer children remain Medicaid eligible or access the care offered at 6-8 weeks and at 6-9 months.

	Number of Screenings	Estimated Medicaid Costs FY 2004-2005
Newborn Screenings at Birth	111,021	\$4,329,805
Screenings at 6-8 Weeks	47,000	3,037,358
Screenings at 6-9 Months	33,500	2,165,029
Total Annual Cost to Medicaid (Cap factor of 36.3%)		3,491,642
General Revenue	41.1%	1,435,065
Medical Care Trust Fund	58.9%	\$2,056,577

The first year estimated cost to Medicaid would be up to \$9,532,193 if this service was an add-on to the current Medicaid per diem rate. 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 of \$3,491,642. The fiscal impact does not include estimates of increased utilization due to early detection of medical conditions; rather, it includes estimates of screening costs only.

Local Counties

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:

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 AHCA and the legislative committee having jurisdiction. The report must assess the social and financial impact of the proposed coverage. The Health, Aging, and Long-Term Care Committee has not received a report for SB 2330.

This bill suggests a mandate in statute for the standard of care used in the examination of newborn's eyes. Because standards of care change with new technology and advances in science, it may not be appropriate to statutorily mandate what the standard of care should be. According to the Department of Health, it would be more appropriate for the Board of Medicine, by rule, to establish what types of tests are appropriate to meet the standard of care. By having the requirements established in rule, the methods of screening can be changed and updated with the changes in technology and advances in science.

VIII. Amendments:

None.