

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Banking and Insurance Committee

[2008s2654.hms]

BILL: CS/CS/CS/SB 2654
INTRODUCER: HHSA, HP, BI and Senator Geller; etc.
SUBJECT: Autism Spectrum Coverage
DATE: May 2, 2008

I. Amendments Contained in Message:

House Amendment 1 – 711507 to CS/CS/CS/SB 2654 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1

Autism Spectrum Disorders and Developmental Disabilities (H. Sections 8 and 9) –
The House message:

- Requires coverage of “developmental disabilities”.
- Imposes a \$200,000 lifetime maximum benefit and a \$36,000 yearly maximum benefit.
- Prohibits OIR from enforcing requirements if insurer or HMO is a signatory to the developmental disabilities compact by July 1, 2009. Enforcement against such insurer is available if insurer doesn’t comply with all terms of the compact by July 1, 2010. (See *Developmental Disabilities Compact* in Section 7 of House Message).
- Names the bill the “Steven A. Geller Developmental Disabilities Coverage Act.” (H. Section 1).

The House Message will have a fiscal impact. According to the statutorily required mandated benefit study on SB 2654 conducted by the advocacy group Autism Speaks, the likely maximum premium impact on individuals covered by private health insurance is expected to be less than 1 percent. This would be .87 to \$1.56 per member per month for single policy rates. For family rates it would be \$2.33 to \$4.20 per member per month. The Division of State Group Insurance states that it is difficult to assess the financial impact of this mandate.

Florida Kidcare (H. Sections 4 through 9) - The house message makes many changes to the FL Kidcare Act.:

- Medikids Program – Requires AHCA to ensure family members are assigned to same health plan or provider (similar to SB 888, reported out of Health Policy Comm.)
- Medikids Enrollment – Applies the open enrollment process only to persons receiving premium assistance, and adds the ability to reactivate application if not enrolled within 120 days of original application to Kidcare. Creates a new single, annual enrollment process for full-pay participants not to exceed 30 days, effective July 1, 2009. The annual enrollment

limitation does not apply to children transferring from another component of Kidcare, applicants who adopted a child, or any person who had their private coverage involuntarily terminated. By Oct. 1, 2009, the Social Services Estimating Conference shall estimate if the inclusion of the full-pay participants with new benefits for the developmentally disabled has raised overall premiums by 5 percent of current average premiums, the Florida Healthy Kids Corporation may, in consultation with AHCA, take actions to reduce the effects. (sect. 6)

- FL Kidcare Eligibility (similar language found in SB 2534 that passed out of the Senate and SB 888 heard in Health Policy)
 - Removes the 10 percent cap from full “pay participants”;
 - Combines the MediKids and Healthy Kids programs and moves children into Healthy Kids on October 1, 2009;
 - Requires AHCA to notify health plans if an enrollee is losing eligibility for Medicaid or MediKids to help them transition into other components of the Kidcare program;
 - Requires eligibility information to be obtained electronically, to the extent possible.
Total cost = \$12,600,000 (\$3,900,000 GR);
 - Reduces the crowd-out provision of the program for voluntarily cancelling employer or private coverage (with “good cause exceptions”) from 6 months to 90 days. **Total cost = \$784,357 (\$221,852 GR)**
- Allows participation in Kidcare if participating in employer coverage is more than 5 percent of the family’s income (one of the “good cause exceptions”). **Total cost = \$965,627 (\$269,037 GR).**
 - Specifies that full-pay applicants do not have to submit eligibility information;
 - FL Kidcare Administration – Extends continuous coverage from 6 to 12 months.

Medicaid Home and Community Based Services for Developmental Disabilities and Autism (H. Sections 10 and 11) – Authorizes AHCA to seek federal approval through a Medicaid waiver or state plan amendment for the provision occupational therapy, speech therapy, physical therapy, behavior analysis and behavior assistant services.

- Services provided to persons age 5 and under diagnosed with a developmental disability or autism spectrum disorder.
- Coverage limited to \$36,000 annually, and \$108,000 in lifetime benefits.
- AHCA must submit an annual report on progress obtaining federal approval and recommendations for implementation of this program.
- AHCA may not implement this program without prior legislative approval.
- **Total cost for adding ABA coverage: \$57,006,000 (\$25,390,472 GR)**
- **Total cost for adding habilitative coverage: \$54,725,760 (\$24,374,854 GR)**
 - Both Delayed until legislative approval of program.

Continuing Education on Developmental Disabilities (H. Section 12) – Requires licensed health professionals under ch. 458 (physicians), ch. 459 (osteopaths), part I of ch. 464 (nurses), ch. 490 (psychology), or chapter 491 (counseling/psychotherapy) to complete a 2-hour continuing education course on developmental disabilities and autism once every 6 years.

Florida Healthy Kids Corp. (H. Section 13; similar language in SB 2534, which passed out of the Senate and SB 888 which passed out of Health Policy.)

- Requires the assignment process for FL Healthy Kids enrollees to ensure family members are assigned to the same managed care plan, to the greatest extent possible.
- Requires Healthy Kids and dentists in Kidcare to distribute outreach materials.
- Requires Healthy Kids Corp., to report the utilization patterns, costs, and other effects of this act on the Healthy Kids Program.

Developmental Disabilities Compact (H. Section 14)

- Requires the Office of Insurance Regulation (OIR) to convene a working group to negotiate a compact with health plans that includes a binding agreement regarding coverage and access to services for persons with developmental disabilities and autism spectrum disorder. The concept of a “compact” usually involves an agreement among various states or jurisdictional authorities that mutually agree to abide by a set of laws or regulations.
- Staff is unaware of use of the “compact” concept within a single state among private businesses and an agency. Use of the compact concept in this way raises questions, as the compact would exempt group health insurers and HMOs complying with the compact from having to comply with the mandated coverage requirements for autism and developmental disabilities created by this bill in sections 15 and 16. This provision may raise a constitutional issue of an unlawful delegation of Legislative authority. It creates the possibility of the executive branch negotiating standards that require a lower level of benefits to be provided than those mandated by the Legislature.
- The compact must include:
 - Each signatory must increase coverage for treatment of developmental disorders and autism spectrum disorders.
 - Procedures for clear and specific notice to policyholders identifying the amount, scope, and conditions under which coverage is provided.
 - Penalties for documented cases of denied claims for medically necessary services due to presence of a developmental disorder or autism spectrum disorder.
 - Proposals for new product lines that may be offered in conjunction with traditional health insurance and provide a more appropriate means of spreading risk, financing costs, and accessing favorable prices.
- Upon completion of compact negotiations, OIR must report results.
- Beginning Feb. 15, 2009, OIR must provide an annual report regarding the compact.

McKay Scholarships (H. Section 17)

- Revises terminology to reflect CS/CS/SB 2700.
- Removes requirement that a parent must be dissatisfied with child’s progress to take advantage of scholarship program.
- Expands eligibility to a child who participated in a public or private Voluntary Pre-Kindergarten (VPK) program and has a current early intervention services program.
- The new VPK program is not effective until the 2011-2012 school year and has an indeterminate fiscal impact.
- Provides retroactive scholarship eligibility for the 2008-09 school year to a student who received a scholarship in the 2006-07 school year but was unable to receive a scholarship in the 2006-07 school year due to the “regular and direct contact” requirement.

- SB 2822 (2008) by Sen. Wise and SB 2600 (2007) which contains retroactive provisions. Sen. King's '06 accountability bill specifically required students to meet these requirements.

Voluntary Pre-Kindergarten for Children with Developmental Disabilities

(H. Sections 18 through 20, 22 and 23)

- Beginning 2011-2012 school year, the bill creates a VPK program for children with disabilities who are otherwise eligible for the existing program and have a current early intervention program.
- Program allows eligible children to receive appropriate early intervention services (applied behavior analysis, speech-language pathology, occupational therapy, and physical therapy) that are selected by a parent from approved providers.
- Requires services to address the age appropriate progress of children.
- Directs the early learning coalition to reimburse approved service providers for early intervention services.
- Limits reimbursements for an eligible child to the VPK base student allocation in the General Appropriations Act.
- Directs each Center for Autism and Related Disabilities (CARDS) to approve early intervention service providers in its respective region, maintain approved provider lists, and notify each school district and early learning coalition in the region of the approved list.
- Allows a center to approve a service provider that is not on the approved list, upon request of a parent.
- Requires DOE to develop, in conjunction with AWI, the form or format for recording a child's eligibility for early intervention services under the program.
- Requires AWI to develop procedures for the new VPK program.

Voluntary Pre-Kindergarten Funding (H. Section 21) – Allows a parent to re-enroll a child in another VPK school-year and summer option if the child has not received more than 10 percent of the authorized funds for early intervention services.

Regional Learning Gateways (H. Sections 24 through 28) – The Centers for Autism and Related Disabilities (CARDS; currently called regional autism centers) must work with DOE and FDLRS to establish regional learning gateways within the seven CARD regions. The gateways are designed to assist parents in accessing resources for the diagnosis and treatment of children younger than 5 years old for disabilities. The bill specifies the learning gateway responsibilities.

- Creates the State Learning Gateway Council to provide statewide coordination of the regional learning gateways and advise the Governor and Legislature.
 - Authorizes the council to designate a center for autism and related disabilities at UF as a medical model.
 - Requires regional CARD centers to submit Learning Gateway implementation plans to the council by Jan. 1, 2009.
 - Assigns council to DOE for administrative purposes.

Repeal of Early Success Program (H. Section 29) – The Early Success Program

(ss. 411.22-411.228) is the “Learning Gateway” program in current law. The program is funded at Manatee Community College. The services provided by the current program appear to be

broader and more community oriented than those listed in the bill's new Learning Gateway program.