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DATE: March 8, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 41
RELATING TO: Health Insurance
SPONSOR(S): Representative Brennan & others
STATUTE(S) AFFECTED: 627.668, 627.6681, F.S.
COMPANION BILL(S): SB 274

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Elder Affairs & Long Term Care YEAS 8 NAYS 0
- (2) General Government Appropriations
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

Carried over to the 1998 Session.

II. SUMMARY:

Coverage for mental illness has become quite limited, particularly as it relates to the more serious mental illnesses. Existing law requires insurers in Florida to offer group policyholders optional coverage for mental illness and nervous disorders which may vary for each insurer. The coverage generally extends to any mental condition recognized in standard professional nomenclature, and must include minimum benefits of 30 days hospitalization and \$1,000 outpatient benefits, payable to any licensed mental health professional.

This bill requires insurers to provide coverage for serious mental illness in group health policies and HMO contracts at a level equivalent to the coverage provided for physical conditions. Coverage is conditioned upon a physician's determination that it is medically necessary. The bill establishes a definition of "serious mental illness" to include conditions traced to biological disorders of the brain. The bill references professional texts which specify these conditions. The bill further requires that the standard, basic, and limited health plan committee, appointed pursuant to s. 672.6699(12)(a)1., F.S., consider modification of those plans to add the coverage for serious mental illness, and to forward such recommendations to the Department of Insurance for review and possible approval.

The bill bears a fiscal impact for the Department of Insurance to administer these provisions and includes a specific appropriation. The bill will also have a fiscal impact on other health benefit plans, government and private, that offer this coverage. However, there should be long-term benefits in the form of reduced total costs to treat mental illness and nervous disorders.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Severe mental illnesses are brain disorders, biologically-based medical problems. Brain disorders include: major depression, bipolar disorder (manic depressive illness), schizophrenia, obsessive-compulsive disorder (OCD), and panic disorders. Brain disorders do not include the variety of temporary emotional problems that many people experience intermittently.

Common assumptions about mental illness:

- *Mental illness is not treatable.*
- *Mental illness is caused by poor child rearing.*
- *It is rare and only affects those people.*
- *Treatment is too costly.*

Historically, treatments for mental illness and nervous disorders have been provided primarily through hospitalization or through office visits for "talk therapy." Insurers have tended to provide substantially reduced benefits for treatment of mental health problems, as opposed to physical conditions. The tolerance for these disparate levels of coverage seems to be based on the contention, often made by insurers, that psychiatric conditions are not well defined, and are difficult to treat with efficacy. However, there is research that suggests that medical knowledge of these conditions has advanced considerably in recent years, and that physicians can diagnose and treat many forms of mental illness with high levels of success. Public policy decisions have been made and implemented in other states based on this medical research which has appeared in important journals of medicine.

Research on brain disorders:

- Brain disorders are treatable.

Medication relieves the acute symptoms of schizophrenia for eighty per cent of persons treated. Eighty five per cent of persons with major depression can be effectively treated with pharmacologic treatments. Similar efficacy is reported also for OCD, and for panic disorders. (American Psychiatric Association, 1995)

- Brain disorders are biologically based diseases.

The American Psychiatric Association reports that magnetic resonance imaging (MRI) scans, and positron emission tomography (PET) scans of the brain have allowed psychiatric researchers to observe a living brain function. These PET scans have shown that the brains of persons suffering from schizophrenia do not metabolize the sugar, glucose, the same way as the brains of healthy people do. PET technology has also allowed physicians to make a differential diagnosis between schizophrenia and the manic phase of manic-depressive illness.

- Brain disorders affect people from any strata and group in society.

Nationwide, it is estimated that one in five individuals needs mental health care services each year. In Florida, it is estimated that approximately 3 percent of the population, or approximately 400,000, suffers from severe mental illness. (Florida Mental Health Institute, report entitled Mental Health Parity).

Persons of note who suffer from mental illness include: Governor Lawton Chiles; Green Bay Packer, Lionel Aldridge; astronaut Buzz Aldrin; Johns Hopkins University professor and writer, Dr. Kay Redfield Jamison; and entrepreneur, Ted Turner. (Joy Ikelman, 1997).

- Treatment is cost-effective.

A National Institute of Mental Health sponsored study provides the most recent available data on the cost (direct and indirect) of mental illness. The 1990 direct costs of treating severe mental illnesses were estimated to be about 20 billion dollars and another seven billion dollars for long term nursing home care. This is roughly ten per cent of the total direct costs of all health care in the United States. (Health Care Financing Review, 1991). The indirect costs estimate for that same year is 44 billion dollars. The American Journal of Psychiatry in the October 1993 edition reported of these indirect costs: "This cost to society includes lost productivity and lost earnings due to illness, as well as lost earnings due to premature death."

Florida Law

Florida law presently requires insurers and health maintenance organizations to offer the option of coverage for mental illness or nervous disorders. Insurers are authorized to charge an "appropriate additional premium," under section 627.668, F.S. The law requires an insurer to offer a range of coverages. Basic standards provide that inpatient hospital benefits of no less than 30 days per year and outpatient benefits may be limited to \$1,000 per year. Insurers may separately price the coverage, and may vary the benefits for inpatient or outpatient services or hospitalization.

The "standard" and "basic" small group insurance plans currently define "mental and nervous disorder" by referring to the most recently published edition of the Diagnostic and Statistic Manual of Mental Disorders.

Federal Law

In 1996, the federal Mental Health Parity Act was enacted. It requires an insurer that provides both physical and mental health benefits to establish the same annual and lifetime dollar limits on both kinds of benefits. The Act applies to group health plans and group health insurance coverage offered in connection with a group plan. Mental health benefits as defined in the Act do include treatment of substance abuse or chemical dependency.

Exceptions and exemptions of the act are provided. Small employers (2-50 employees) are exempted, and the Act does not apply if the implementation would result in an increase in the cost of the plan of one percent or more. The act is silent as to how this exemption would be determined.

The Act specifically states that the provisions do not require a group health plan, or health insurance coverage offered in connection with such a plan, to provide any mental health benefits. In addition, the act does not affect the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits.

The Mental Health Parity Act is added to the requirements in the Employee Retirement Income Security Act (ERISA) and the Public Health Services Act, as amended by the Health Insurance Portability and Accountability Act (HIPAA). The Mental Health Parity Act's enforcement requirements are those of HIPAA.

HIPAA allows each state to either enact and enforce the federal provisions or fall back to federal enforcement. Each state is permitted to adopt provisions that expand or provide more favorable treatment for the individual.

B. EFFECT OF PROPOSED CHANGES:

This bill requires insurers, HMOs and medical service plans that issue group insurance or prepaid health plans to provide in group hospital and medical expense policies, in group prepaid health care contracts, and in group hospital and medical services contracts, coverage for treatment of serious mental illnesses. This is in addition to the current mandated offer of coverage for a broader array of mental illness and nervous disorders. The bill provides a definition of "serious mental illness" which gives specific direction that coverage be extended only when determined to be medically necessary, which expressly includes treatment for substance abuse.

The definition also expressly limits coverage to conditions that are traced to biological disorders of the brain. Studies by various associations of mental health practitioners maintain that by providing coverage equal to commonly recognized physical conditions, there should be more consistent and earlier intervention, thereby minimizing the cost.

The bill further requires that the standard, basic and limited health plan committee, appointed pursuant to s. 672.6699(12)(a)1., F.S., consider modification of those plans to add the coverage for serious mental illness in plans offered to small employers. The committee's recommendations are to be forwarded to the Department of Insurance for review and possible approval. The bill provides that exclusive provider organizations; group, blanket, and franchise health policies; HMOs must provide coverage for serious mental illness.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No state fees are authorized.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes through premiums.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A.

(2) Who makes the decisions?

N/A.

(3) Are private alternatives permitted?

Yes.

(4) Are families required to participate in a program?

No.

(5) Are families penalized for not participating in a program?

No.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

Section 1. Provides that the act may be cited as the "Dianne Steele Mental Illness Insurance Parity Act."

Section 2. Amends s. 627.668, F.S., relating to optional coverage for mental and nervous disorders. Provides that only the confidentiality of records applies to coverage for serious mental illness as defined in the newly created s. 627.6681, F.S.

Section 3. Creates s. 627.6681, F.S. Every insurer and HMO transacting group health insurance or providing prepaid health care in Florida must provide coverage for the treatment of serious mental illness. Inpatient hospital benefits, partial hospitalization

benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors are required to be the same for serious mental illness as for physical illness.

If a diagnosis of serious mental illness is accompanied by substance abuse, treatment for the patient who is dually diagnosed shall include, but not be limited to, treatment for substance abuse.

The standard, basic, and limited health benefit plan committee is required to consider the modifications of the plans to include coverage for serious mental illness. The committee is required to submit any recommended modifications to the Department of Insurance for approval.

A small employer carrier is required to offer the standard and basic limited health benefit plans to small employers (50 or less employees), pursuant to s. 627.6699, F.S.

Serious mental illness, as used in this section, is defined as any mental illness that is recognized in the latest edition of relevant manuals of the APA or by the International Classification of Diseases, and affirmed by medical science as caused by biological disorder of the brain, and that substantially limits the life activities of the patient. This definition includes, but is not limited to, schizophrenia, schizo affective disorders, delusional disorders, bipolar affective disorders, major depression, and obsessive compulsive disorders.

The insurer or health maintenance organization must file a rate factor that details the increase in rates that would be attributable to the coverage specified in this section. If the factor indicates an increase greater than 2.5 per cent, the insurer or HMO is authorized to adjust deductibles, coinsurance, or limits.

An insurer would be permitted to require that an insured person be referred for covered services for serious mental illness by a designated health care provider who is responsible for coordinating such services.

The department may adopt by rule later editions of the diagnostic manuals cited in section (5)(a). The department is granted authority to implement this section including authority for calculating the rates necessary to determine compliance with 627.410, 627.411, and 627.6681 related to insurance rates and contracts.

Section 4. Amend 627.6472 to require that each exclusive provider organization that offers a group plan in the state must comply with 627.6681, "Coverage for serious mental illness required".

Section 5. Requires that each group, blanket, and franchise health insurance policy that offers a group plan within the state comply with 627.6681, "Coverage for serious mental illness required".

Section 6. Requires each HMO that offers a group plan in the state must comply with 627.6681, "Coverage for serious mental illness required".

Section 7. Appropriates for fiscal year 1997-1998, one full-time equivalent position and \$38,288 to the Department of Insurance from the Insurance Commissioner's Regulatory Trust Fund to implement the provisions of this bill.

Section 8. Creates Legislative intent that the bill fulfills an important state interest in promoting the relief and alleviation of health or medical problems that affect a significant portion of the state's population, improving the quality of care for such persons, and ultimately resulting in more cost-efficient and effective treatment.

Section 9. The Act takes effect October 1, 1997, and applies to any policy issued, written, or renewed in Florida on or after such date.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Insurance Commissioner's Regulatory Trust Fund: 1 FTE \$38,288

2. Recurring Effects:

The state of Texas implemented mental health parity legislation and reported that the total cost for employee health care premiums including mental health coverage for serious mental illness was approximately \$2.40 per member per month for the self-insured plan. The plan had approximately 270,000 participants in 1995. This would translate to a cost of \$675,000 per year. As of 12/31/96, there were 169,414 Florida state employees. If the Florida premiums were comparable to the Texas costs, it would cost approximately \$405,600, or \$2.50 per state employee.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

\$38,288

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The health insurance benefit required by this bill would apply to the local government health insurance plans. Required group health insurance benefits also apply to plans of self-insurance, unless the self-insured plan is subject to the federal Employee Retirement Income Security Act (ERISA)(s. 627.651, F.S.). Government plans are exempt from ERISA and would, therefore, be subject to the mandatory benefit requirements. This bill may result in additional premiums or costs for local government health plans, but the coverage of serious mental illness may ultimately result in reduced total costs for health care to the extent that the enhanced coverage reduces direct and indirect costs of treatment.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Insurers will incur increased costs for added coverage of serious mental illnesses, beyond the coverage offered today. Employers will likely incur increased costs in premiums associated with the coverage of serious mental illness. The levels of these cost impacts are difficult to determine, though several private studies that have been conducted project that the additional cost would be less than \$10.00 per person per month covered. An estimate provided by the sponsor projects an average cost of approximately \$1.00 per person, per month to provide the coverage required in the bill. A review of the experience of other states provides the following information:

| State | Group | Parity Required | Premium Costs |
|---------------|---|---|---|
| Minnesota | Allina Health Systems (HMO) | mental health & substance abuse | + .26 per member/ per month |
| Minnesota | Blue Cross/Blue Shield (using managed care) | mental health & substance abuse | 5%-6% reduction for small businesses |
| Minnesota | Comprehensive Health (reinsurance for high risk pool) | mental health & substance abuse | raised the life time benefits cap after 1 year of experience with parity. |
| New Hampshire | Blue Cross/Blue Shield | mental illness, limited to certain policies | + 1.5% increase -initial data. Final data not available yet. |
| Rhode Island | | biologically-based, severe mental disorders | + .30 per member/ per month |

2. Direct Private Sector Benefits:

Implementation of the bill would expand and improve treatment of persons with serious mental illness. Associations representing mental health practitioners maintain that, when the costs that would be avoided from treating physical conditions associated with mental illness, significant net savings are possible. Employers may experience further reductions in total health care costs and improvements in productivity.

Insurers ultimately should experience reduced total claims associated with mental conditions. It is also projected that a reduction in total health care costs should result from the more comprehensive treatment of these conditions, that will approximately equal the increase in treatment costs. Associations representing mental health practitioners maintain that when the indirect costs are considered that would be avoided by eliminating the treatments for physical conditions associated with mental illness, significant net savings are possible. The level of these impacts are indeterminate.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Nationally, managed care accounts for about three quarters of all private health insurance plans. Managed care is a significant strategy for insurers in Florida. Much as managed care has produced a reduction in unnecessary medical procedures, surgeries, and inpatient hospital stays, so, it is likely that gatekeepers, utilization review, and prior authorization will provide managed access and cost-containment for mental health services. (Governing, December 1996)

Some businesses nationally have already removed mental health benefit limits and realized a cost savings. BellSouth, Digital, and First Chicago are among the corporations that have implemented such a policy without adverse fiscal consequences.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The health insurance mandate of this bill would apparently apply to local government health insurance plans, as described in the fiscal analysis above. This requirement may be deemed to be a general law requiring a county or municipality to spend funds that triggers the application of Article VII, Section 18. Since this expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments, the constitutional provision would allow such a general law if the legislature determines that the law fulfills an important state interest. The bill includes a provision that expresses this Legislative determination.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

See Section-By-Section Research sections 4, 5, and 6.

VIII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Legislative Research Director:

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