STORAGE NAME: h0207a.in
DATE: March 23, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS

BILL #: HB 207

RELATING TO: Health insurance coverage for autism spectrum disorder

SPONSOR(S): Representative Crow

COMPANION BILL(S): CS/SB 272 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) INSURANCE YEAS 8 NAYS 5
(2) HEALTH CARE SERVICES
(3) GENERAL APPROPRIATIONS
(4)
(5)

I. SUMMARY:

Autism is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders. Individuals with autism usually exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests. Variants of autism include Rett's syndrome, Asperger's syndrome, and pervasive development disorder.

Presently, health insurers and health maintenance organizations (HMOs) do not provide coverage for many of the therapies and treatments which are applied to individuals with autism.

The bill would mandate health insurance coverage for "autism spectrum disorder," which would include autism, Asperger syndrome, Rett's syndrome, and pervasive development disorder. Health insurers and health maintenance organizations (HMOs) issuing major medical expense coverage would be prohibited from excluding coverage prescribed by the referring physician for the treatment of autism spectrum disorder, including coverage for therapeutic evaluations and interventions, such as speech therapy, occupational therapy, physical therapy, intensive early intervention, applied behavioral analysis, and Lovaas behavioral therapy.

In addition, the health insurers and HMOs would be required to apply the same terms and conditions to the coverage for autism spectrum disorder as they apply to the coverage for other disorders. Health insurers and HMOs would be authorized to confirm diagnoses or review the appropriateness of specific treatment plans in order to ensure that coverage is limited to diagnostic and treatment services.

The bill would have a negative fiscal impact on state government and could have a negative fiscal impact on local government. According to a study conducted pursuant to s. 624.215, F.S., the bill would have a negative annual fiscal impact of $53 million on the private sector. See the "Fiscal Impact" section of the analysis.

Amendment:

There is one amendment adopted by the Committee on Insurance traveling with the bill. The amendment would add a legislative finding that the bill fulfills an important state interest. (See Section VI. of the Analysis).

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

What is Autism?

Autism is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders. See Section 393.063(2), F.S. (pertaining to regional autism centers). Individuals with autism usually exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

According to the *Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM-IV*), published by the American Psychiatric Association, autism is classified as one of the pervasive developmental disorders, which is:

> "...Characterized by severe and pervasive impairments in several areas of development . . . This section contains autistic disorder, Rett's Disorder, Childhood Disintegrative Disorder, Asperger's Disorder, and Pervasive Developmental Disorder Not Otherwise Specified."

The DSM-IV provides the following diagnostic criteria for autistic disorder:

A. A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3):

(1) Qualitative impairment in social interaction, as manifested by at least two of the following:
a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;
b. Failure to develop peer relationships appropriate to developmental level;
c. A lack of spontaneous seeking to share enjoyment, interests or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest); or
d. Lack of social or emotional reciprocity.

(2) Qualitative impairments in communication as manifested by at least one of the following:
a. Delay in, or total lack of, development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);
b. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;
c. Stereotyped and repetitive use of language or idiosyncratic language; or
d. Lack of varied, spontaneous make-believe play or social initiative play appropriate to developmental level.

(3) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:
a. Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;
b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;
c. Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements); or
d. Persistent preoccupation with parts of objects.

B. Delays or abnormal functioning in at least one of the following areas, with onset prior to age 3 years; (1) social interaction, (2) language, as used in social communication, or (3) symbolic or imaginative play.

C. The disturbance is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder.

Detection of these disorders usually occurs during infancy or childhood, usually between 18 months to 3 years of age. Autism is not fatal and does not affect normal life expectancy. The cause of autism is unknown and, currently, there is no known cure for autism.

Treatments for Autism and Related Disorders

Speech-language therapy, occupational therapy and physical therapy are commonly applied to individuals with autism. According to the Center for Autism and Related Disabilities (CARD) these therapies are applied for the following purposes:

- *Speech-Language Therapy*: People with autism usually have delays in communication. Speech therapists look for a system of communication that will work for an individual with autism and may consider alternatives to the spoken word such as signing, typing, or a picture board with words.

- *Occupational Therapy*: Commonly this therapy focuses on improving fine motor skills, such as brushing teeth, feeding, and writing, or sensory motor skills that include balance, awareness of body position, and touch.

- *Physical Therapy*: This therapy specializes in developing strength, coordination, and movement.

According to the National Institute on Mental Health (NIMH), a number of other treatment approaches have evolved in the decades since autism was first identified. These approaches include developmental and behaviorist. Developmental approaches provide consistency and structure along with appropriate levels of stimulation.

Behaviorist training approaches are based on rewarding individuals for a certain type of behavior. Dr. Ivar Lovaas first applied behaviorist methods to children with autism more than 25 years ago. Lovaas therapy involves time-intensive, highly structure, repetitive sequences in which a child is given a command and rewarded each time he responds correctly. Using this approach for up to 40 hours a week, some children may be brought to the point of near-normal behavior. Others are much less responsive to the treatment. However, some researchers and therapists believe that less intensive treatments, particularly those begun early in a child's life, may be more efficient and just as effective. Presently, NIMH is funding several types of behaviorist treatment approaches to help determine the best time for treatment to start, the optimum treatment intensity and duration, and the most effective methods to reach both high and low functioning children.

What are Mandates?

Laws that require health insurers to provide coverage for particular conditions or procedures as a part of individual or group policy are known as "mandates." According to section 624.215 (1), F.S., proposals which mandate health insurance coverage are increasing in number. In this section, the Legislature notes that many of these proposals provide beneficial social and health consequences which may be in the public interest. However, the Legislature also recognizes that most mandated benefits contribute to the increasing cost of health insurance premiums. In order to determine whether the mandated coverage is in the public interest, section 624.215(2), F.S., requires all organizations proposing mandated coverage to prepare a report which assesses the social and financial impacts of the proposed coverage and submit it to the Agency for Health Care Administration and legislative committees having jursidiction over the proposal.

Statutory guidelines for assessing the impact of mandated coverage include:

- To what extent is the treatment or service generally used by a significant portion of the population;
- To what extent is the insurance coverage generally available;
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment;
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship;
- The level of public demand for the treatment or service;
- The level of public demand for insurance coverage of the treatment or service;
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts;
- To what extent will the coverage increase or decrease the cost of the treatment or service;
- To what extent will the coverage increase the appropriate uses of the treatment or service;
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service;
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and

- The impact of this coverage on the total cost of health care.

Section 624.215(2)(a) - (l), F.S.

See the "Comments" section of the analysis for a summary of a study conducted by Susan Goldstein of Nova Southeastern University in response to the requirements of s. 624.215, F.S.

What Health Coverages and Services are Currently Mandated in Florida?

Florida law mandates health insurance coverage for a variety of conditions and services, such as diabetes (s. 627.6408, F.S.), osteoporosis (s. 627.6409, F.S.), mastectomies (s. 627.6417, F.S.), and mammograms (s. 627.6418). Florida law does not mandate coverage for autism or related disorders.

Although individual and group health insurance is not required to cover autism, Florida law does require insurers to offer the option of coverage for mental health conditions, which includes autism and related disorders.[1]

Under this mandated option for mental health coverage, every insurer, health maintenance organization, and nonprofit hospital and medical service plan corporation transacting group health insurance or providing prepaid health care in this state must make available to the policyholder as part of the application, for an appropriate additional premium, benefits for the necessary care and treatment of mental and nervous disorders.

If this optional coverage is elected by the policyholder, the benefits, exclusions, or limitations shall not be less favorable than for physical illness generally, except that:

- Inpatient benefits may be limited to not less than 30 days per benefit year. If inpatient beenfits are provided beyond the limits, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally.

- Outpatient benefits may be limited to $1,000 per benefit year for consultations with a mental health professional. If outpatient benefits are provided beyond the limits, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally.

- Partial hospitalization benefits paid for such services shall not exceed the cost of 30 days of inpatient hospitalization for psychiatric services. If partial hospitalization services benefits are provided beyond the limits, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally.

Is Coverage for Autism Generally Available in the Health Insurance Market?

Currently, many health insurers and health maintenance organizations (HMOs) either do not provide coverage for treatment of autism and related disorders or provide limited coverage of autism and related disorders. The rationale posited by one HMO for excluding coverage of autism is that it is a developmental disorder which should be treated as an educational issue and not a medical disorder to be treated under health insurance.

While some health insurers and HMOs exclude coverage for autism, other HMOs, such as the ones contracting to cover state employees, provide some level of treatment for autism and related disorders. For state-contracted HMOs, treatment for autism, Rett's syndrome, Asperger syndrome, and Pervasive Development Disorder is considered a covered benefit if provided to the covered person by a licensed mental health provider, subject to limitations. The coverage includes:

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[1] Section 627.668(1), F.S., applies to "mental and nervous disorders, as defined in the standard nomenclature of the American Psychiatric Association." The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), published by the American Psychiatric Association, includes Autistic disorder, Rett's disorder, Asperger's disorder, and Pervasive Development Disorder Not Otherwise Specified.

- Inpatient confinement in a hospital, specialty institution, or residential facility, for the treatment of autism, if authroized by the Health Plan. Coverage includes visits from licensed mental health providers during confinement. Coverage is limited to up to 31 days per calendar year.

- Outpatient treatment rendered by a licensed mental health provider and medical doctors licensed under Chapter 458, F.S., and doctors of osteopathy licensed under Chapter 459, F.S., for autism, including diagnostic evaluation and psychiatric treatment, individual therapy, and group therapy. Coverage is limited to 26 visits per calendar year.

State-contracted HMOs exclude coverage for occupational therapy, experimental or investigational treatment, custodial care, non-prescription drugs, and training and educational services.

According to the mandate study conducted by Susan Goldstein of Nova Southeastern University, many health insurance companies deny speech and behavioral therapy for autism and related disorders.

Employee Health Care Access Act

Under s. 627.6699, F.S., the Employee Health Care Access Act, the Legislature promotes the availability of health insurance coverage to small employers (i.e., 50 or fewer employees). Under this act, health insurers are required to offer small employers “standard” or “basic” group policies, which provide certain statutorily-mandated benefits and such other benefits as are determined by a benefit plan committee and approved by the Department of Insurance. However, s 627.6699(15)(a), F.S., provides, in part:

> Except as expressly provided in this section, a law requiring coverage for a specific health care service or benefit . . . does not apply to a standard or basic health benefit plan policy or contract or a limited benefit policy or contract offered or delivered to a small employer, unless that law is made expressly applicable to such policies or contracts.

Therefore, statutory mandates for health insurance coverage do not apply to "basic" or "standard" group policies offered to small employers unless the law expressly requires the mandate to apply.

What Government-Related Treatment and Services are Available for Autism?

Federal, state, and local governments are involved in providing some treatment and services to individuals with autism and related disorders, many of which are directed toward low income families. These programs include:

Federal Programs

Supplemental Security Income (SSI) Benefits - The federal government provides some benefits to persons with autism through SSI benefits. Any person with autism may qualify for SSI benefits upon reaching 18 years of age, or parents of an autistic child under 18 years of age may qualify the child. Eligibility is based on need, such as income, assets, and expenses of the parent and medical verification of the child’s condition. Generally, SSI benefits are capped at $500 per month.

State/State-Funded Programs

Medicaid - Low income families may be eligible for Medicaid, which provides physical therapy, speech therapy, and occupational therapy (subject to limitations) for children under 21 with autism. Behavioral therapy is provided under Medicaid to persons diagnosed with a mental illness. Autism does not, by itself, serve as the basis for a diagnosis of mental illness under Medicaid. However, if a person is diagnosed with both mental illness and autism, behavioral therapy would be provided under Medicaid.

Department of Children and Families (DCF) Community-Based Waiver - Pursuant to Chapter 393, F.S., DCF provides home and community based services to people with developmental disabilities, including autism (but not Aperger’s syndrome or pervasive developmental disorder). The services offered by the Developmental Services Division of DCF for autism include speech

therapy, occupational therapy, physical therapy and behavioral analysis. Other DCF services include family care programs and residential services such as respite, which is a rest period for families who have autistic children. In order to qualify for these services, the individual must obtain a diagnosis of autism. Currently, the Developmental Services Division provides services to 649 individuals with autism. Approximately half of these individuals receiving services are eligible for the community-based waiver which requires the individual to be eligible for Medicaid.

Centers for Autism and Related Disorders (CARD) - Pursuant to s. 228.055, F.S., the Department of Education oversees the operation of six regional autism centers (located at six universities throughout the state), which provide free nonresidential resource and training services for persons of all ages with autism. The services provided are primarily supportive and evaluative, including child and family assistance, professional education, technical assistance, and public awareness. The CARD does not provide therapy or medical treatment. To be eligible to receive the CARD services, one must demonstrate the diagnosis of autism.

State/Local Government

Department of Education/School Districts - The Department of Education (DOE), through local governments school districts, provide services for autistic children through its school districts. When children with autism reach 3 years of age, they may enter exceptional student education programs administered by the school districts which can provide speech, occupational, and physical therapy to autistic children. This therapy, however, is provided only during school hours and must be school-relevant -- i.e., the therapy is provided only to ensure the child is capable of performing in a classroom.

Health Insurance Mandates for Autism in Other States

Some states provide coverage for autism through specific mandates or through inclusion of coverage through mental health parity laws. Effective July 15, 1998, the Kentucky Legislature mandated coverage for the treatment of autism for children, 2- 21 years of age, covered under a health benefit plan. The legislation specifically required coverage for therapeutic respite and rehabilitative care. Coverage for autism is subject to a $500 maximum benefit per month, per covered child. This limit does not apply to other health conditions of the child and services for the child not related to the treatment of autism. The definition of autism tracks the DSM-IV definition of autism.

Connecticut, Maine, Missouri, New Hampshire, and Texas provide coverage for autism through their mental health parity laws. Effective January 1, 1995, New Hampshire required coverage for autism that is no less extensive than coverage for physical illnesses and the mandate applies to group policies and HMOs, regardless of size. Maine enacted legislation in 1995 that included coverage for autism in group contracts that is no less extensive than medical treatment for physical illnesses and excludes groups of 20 or fewer employees. In 1997, Connecticut enacted a mental illness parity law that specifically included coverage for autism that would be equal to coverage provided for medical or surgical conditions. As of September 1, 1997, Missouri requires managed care plans to provide coverage for all disorders defined in the *DSM-IV* manual equal to physical illness. Effective January 1, 1998, Texas requires coverage for pervasive developmental disorder for up to 50 outpatient visits and 45 inpatient days annually.

B. EFFECT OF PROPOSED CHANGES:

Health insurers and HMOs would be required to provide health insurance coverage for "autism spectrum disorder," which would include autism, Asperger syndrome, Rett's syndrome, and pervasive development disorder. Health insurers and health maintenance organizations (HMOs) issuing major medical expense coverage would be prohibited from excluding coverage prescribed by the referring physician for the treatment of autism spectrum disorder, including coverage for therapeutic evaluations and interventions, such as speech therapy, occupational therapy, physical therapy, intensive early intervention, applied behavioral analysis, and Lovaas behavioral therapy.

In addition, the health insurers and HMOs would be required to apply the same terms and conditions to the coverage for autism spectrum disorder as they apply to the coverage for other disorders. Health insurers and HMOs would be authorized to confirm diagnoses or review the appropriateness of specific treatment plans in order to ensure that coverage is limited to diagnostic and treatment services.

Lastly, the bill would not affect the scope of licensure of any health care professional and would not impair any health care provider's right of reimbursement.

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?

N/A

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

Yes. Private health insurers and HMOs would be required to provide coverage for autism spectrum disorder.

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

N/A

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?

Currently, government programs provide some services and therapies, such as physical, occupational, and speech therapy, to certain families and individuals with autism. The bill would require private health insurers and HMOs to provide coverage for autism spectrum disorder, including therapies and services currently provided by some government programs. Therefore, some of the costs of government services will be passed along to private health insurers and HMOs.

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

See the private sector costs section of the analysis.

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

No. However, since the bill requires private health insurers and HMOs to provide coverage for autism spectrum disorder, the number of people who apply for government services may shrink.

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

Yes. The beneficiaries of the legislation would pay insurance premiums to health insurers and HMOs. However, the beneficiaries would only pay a portion of the total cost for coverage of autism spectrum disorder since the cost would be spread among all policyholders.

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?

Yes. The bill prohibits health insurers and HMOs from precluding coverage for autism spectrum disorder.

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?

N/A

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

N/A

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

N/A

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

N/A

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. STATUTE(S) AFFECTED:

Creates a new, undesignated section of Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The bill would require the state PPO Plan and the HMO contract to add coverage for participants with autism and would require them to remove current limitations relating to rehabilitation and mental health therapies.

According to the Division of State Group Insurance, this bill would have a fiscal impact on state funds and the state group health insurance program. In estimating the fiscal impact of the bill, the Division of State Group Insurance made the following assumptions:

1. Low to medium autism incidence rates (provided by the National Information Center for Children and Youth with Disabilities) of five to fifteen children per 10,000 births;

2. High estimate of autism incidence rate (provided by Autism Society of America) of twenty children per 10,000 births;

3. Current dependent children enrollment of 44,672 in PPO Plan and 49,431 under the HMO contract;

4. Number of services needed: 15 hours of therapy per week for children age four or less, and 4 hours of therapy per week for children age five or greater;

5. Cost per hour of therapy: $50 (average of speech and occupational therapy)

Based on the above, the Division of State Group Insurance estimated the fiscal impact on the State Health Insurance Trust Fund to range from:

$371,800 to $1.5 million for the HMO contracts; and

$431,600 to $1.7 million for the PPO Plan.

Upon review of the Division of State Group Insurance's fiscal impact analysis, the House Committee on Finance and Taxation's revenue estimating conference estimated that the high end of these ranges better reflected the potential impact.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The health insurance benefits required to be provided by this bill would apply to local government health insurance plans. Therefore, to the extent autism is not currently covered under local government health plans, local governments providing health insurance plans could be required to incur expenses in order to provide coverage for autism. This potential impact could also depend on whether local government health plans reduce other coverages in order provide coverage for autism.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Pursuant to s. 624.215, F.S., a mandate study was provided by Susan Goldstein of Nova Southeastern University. The following assumptions were used by Ms. Goldstein in determining the fiscal impact of mandating coverage for autism on the private sector.

Needs
Occupational Therapy:
2.5 hours per week for ages 0-6
ages 8-10, 1.5 hours per week
after age 10, services may vary (assume 1.5 hours per week)

Speech Therapy*:*
2.5 hours per week for ages 0-6
for ages 6-10, 1.5 hours per week
after age 10, services may vary (assume 1.5 hours per week)

Physical Therapy:
Only 1 out of 12 children with autism needs physical therapy for 1 hour per week, ages 0-6 for ages 6-10, 1 out of 20 children may require .75 hours per week
after age 10, services are often not needed.

Intensive Early Intervention
20 hours per week for ages 0-6

Projected Services
Assuming Cost of Services:
Evaluation $225
Treatment Costs: $85 per hour

Breakout of Estimated Number of Individuals Receiving Services (totaling 3,483):
0-5 years of age: 912
6-21 years of age: 2,354
22 years of age and above: 217

Fiscal Impact:
- Total Annual Cost: $53,300,936 (The study estimates that this total is reduced from $77,039,098, after reductions for Medicaid and other public sector funding)
- Average Annual Cost per individual: $22,119
- Average Annual Cost for children ages 0-21: $23,132
- Average Annual Cost for individuals age 22 and above: $6,854

During calendar year 1997, claims payments for indemnity and HMOs totaled approximately $9.1 billion.

Based on the above study, the estimated annual fiscal impact of the bill would be $53 million, which represents approximately 0.58 percent of the total claims paid for 1997.

2. Direct Private Sector Benefits:

Individuals with autism and families with autistic children would have access to treatments and therapies through health insurance which were not previously covered.

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

N/A

D. FISCAL COMMENTS:

The mandate study was conducted by Susan Goldstein, who is a proponent of the bill.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill could require local governments to incur expenses, i.e., to pay additional health insurance costs. Therefore, the bill may fall 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 an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met.

The bill does not contain a legislative finding that the bill fulfills an important state interest.

Since the bill's fiscal impact on local government is indeterminate it is not known whether the impact would be insignificant for purposes of implementing the Florida constitutional prohibition since it may or may not exceed the threshold amount of $1.5 million.

The bill's mandate relating to autism coverage would apply to all similarly situated private, state government, and local government health plans.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

Section 624.215, F.S. -- Mandate Study by Proponent of Legislation

As required by s. 624.215, F.S., a mandate study was conducted by Susan Goldstein of Nova Southeastern University, a proponent of the bill. In this study, Ms. Goldstein responded to the statutory guidelines in the following manner:

- To what extent is the treatment or service generally used by a significant portion of the population;

  See private sector fiscal impact section of the analysis for the study's response to this question.

- To what extent is the insurance coverage generally available;

  "In limited cases, occupational or physical therapy coverage may be offered for 60 days or 60 visits, whichever comes first. Speech and behavioral therapy is denied."

- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment;

  "Children who go without the essential treatment may never have the ability to master basic life skills and they may become a danger to themselves and to the community."

- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship;

  "Parents that provide consistent therapeutic treatment risk bankruptcy or sometimes divorce for Medicaid benefits."

- The level of public demand for the treatment or service;

  "There are approxmately 3,500 individuals in the State of Florida with autism."

- The level of public demand for insurance coverage of the treatment or service;

  "There is a very strong level of public demand for services by afflicted families, particularly in the early stages."

- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts;

  "There is no influence on the part of collective bargaining for the inclusion of this coverage in group contracts."

- To what extent will the coverage increase or decrease the cost of the treatment or service;

  "Eventually, coverage costs will decrease as more professionals are trained to work with autistic children. Families must pay standard hourly fees, while Medicaid enjoys a lower rate. Coverage will assume the cost of treatment at a lower rate."

- To what extent will the coverage increase the appropriate uses of the treatment or service;

  "Coverage will provide more intense, medically based therapy than minimum services provided by DOE, which will enhance progress and development."

- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service;

  "Insurance companies and health maintenance organizations are in a much better position to negotiate lower rates and better quality service. Early intervention reduces future costs to the State."

- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and

  "Coverage will prevent the lengthy denial and appeals process, court costs and litigation expense, for both insurance companies and policyholders."

- The impact of this coverage on the total cost of health care.

  See private sector fiscal impact section of the analysis for the study's response to this question.

Possible Counter-arguments Against Mandated Coverage

Possible counter-arguments to the bill include the argument that mandating coverage for autism would harm both citizens and insurance companies -- i.e., that mandatory coverage of autism would increase health insurance premiums to a level which could force some workers and employers to forgo health insurance coverage altogether.

Another possible response to the points raised in the mandate study is that much of the treatment provided to individuals with autism is not medically necessary -- rather it is educationally necessary. As such, it might be argued that the bill would require health insurers to provide services which are more appropriately provided by the state education system.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 22, 1999, the Committee on Insurance adopted the following amendment:

Amendment #1 (offered in Committee by Rep. Crow): On page 2, between lines 15 and 16, this amendment would add a legislative finding that the bill fulfills an important state interest.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by: Staff Director:

Robert E. Wolfe, Jr. Stephen Hogge