

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/CS/SB 2062

SPONSOR: Banking and Insurance Committee, Health, Aging and Long-Term Care Committee, and Senator Klein

SUBJECT: Infant Eye Care

DATE: March 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Favorable/CS
2.	Emrich	Deffenbaugh	BI	Favorable/CS
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 2062 mandates that every baby born in a Florida hospital must receive, prior to being discharged from the hospital, a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope as the light source for detection of pediatric congenital and ocular abnormalities. It requires the Medicaid program to provide coverage for the initial examination and any follow-up examinations required by law for detecting pediatric congenital and ocular abnormalities in the newborn or infant. The bill specifies methods of compensation under Medicaid for providers conducting the examinations.

The bill further requires that health insurance policies and health maintenance organization (HMO) contracts provide coverage for a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope at birth or by 8 weeks of age when birth occurs outside of the hospital setting; at 6 to 9 months of age; and at 15 to 18 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Any person who fails to comply with the infant screening provisions could be prosecuted for a second degree misdemeanor, but be subject only to a fine of \$500, in lieu of incarceration for 60 days.

According to the Agency for Health Care Administration (AHCA), the total estimated cost to Medicaid under the provisions of the bill would be \$5,120,000.

The American Academy of Pediatrics (AAP) recommends that infants *at risk* for eye problems or *family history* of eye disease or disorders have an ophthalmologic examination in the nursery and that all infants should be examined by 6 months of age for the presence of any eye disease or

disorder. Currently, there is no specific statutory requirement to perform *dilated* eye examinations or for insurance coverage of such examinations to determine an infant's ocular abnormalities or developmental abnormalities. However, current law does provide that prophylactic medication be instilled into the eyes of a baby within 1 hour of birth which shall be provided in hospitals and covered by insurers for the prevention of neonatal ophthalmia in accordance with the recommendations by the Committee on Infectious Diseases of the American Academy of Pediatrics.¹

This bill amends ss. 383.04, 627.6416, 627.6579, and 641.31, F.S., reenacts s. 383.07, F.S., and creates one undesignated section of Florida law.

II. Present Situation:

Prophylactic Required for the Eyes of Infants

Current law requires physicians, midwives, or other persons in attendance at the birth of a child in the state 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 (AAP) for the prevention of neonatal ophthalmia.² 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.

Health Insurance Coverage for Children

Florida law requires that health insurance policies providing coverage on an expense-incurred basis which provide coverage for a family member of the insured must, as to family member's coverage, also provide that the benefits applicable for children will cover child health supervision services from birth to age 16 years.³ Child health supervision services are provided by a physician, or supervised by a physician, and include a physical exam, a developmental assessment, and appropriate immunizations and laboratory tests. The periodic visits and services must be in accordance with the prevailing medical standards consistent with the Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics (AAP).

Likewise, for all group, blanket, or franchise health insurance policies providing coverage on an expense-incurred basis which provide coverage for a family member of the certificate holder or subscriber must, as to family coverage, also provide that the health insurance benefits applicable for children include coverage for child health supervision services from the moment of birth to age 16 years.⁴ Child health supervision services must be provided in accordance with the

¹ S. 383.04, F.S.

² S. 383.04, F.S. 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. gonorrhoea*, *C. trachomatis*, *S. aureus*, *E. coli*, and other micro-organisms. Complications of the infection can include corneal perforation, blindness and dacryocystitis.

³ S. 627.6416, F.S.

⁴ S. 627.6579, F.S.

prevailing medical standards consistent with the Recommendations for Preventive Pediatric Health Care of the AAP.

Health maintenance organizations (HMO) contracts which provide coverage for a member of a family must also provide that benefits applicable for children include coverage for child health supervision services from the moment of birth to age 16 years.⁵ 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 of the AAP.

According to representatives with one of the largest HMOs in Florida, the *undilated* red reflex test is a simple one which is performed on all newborns and is commonly a part of all routine health care exams. It involves looking at the pupils of the newborn or infant through an ophthalmoscope and observing the “red” light which is reflected off the retina. However, a *dilated* red reflex examination is only performed if there is some suspicion of abnormality or the infant is at high risk for ocular problems. Such an exam is usually performed by an ophthalmologist.

Medicaid Coverage for Children

Medicaid is a medical assistance program that pays for health care for the poor and disabled and the program is jointly funded by the federal government, the state, and the counties.⁶ Medicaid 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).⁷ For eye health care, patients must present a suspected illness, vision problem or actual illness.

Recommended Eye Exams for Newborns

Florida Department of Health (DOH) staff report that the American Academy of Pediatrics’ (AAP) Policy Statement (July 1996) entitled Eye Examination and Vision Screening in Infants, Children, and Young Adults (RE9625) recommends that eye exams of newborns and infants include an *undilated* examination of eyelids and orbits, external eye area, eye motility, eye muscle balance, pupils and red reflex. Additionally, the AAP recommends that infants at risk for eye problems, such as retinopathy of prematurity, or those with family histories of congenital cataracts, retinoblastoma, and metabolic and genetic diseases should have ophthalmologic examinations in the nursery. Further, AAP recommends that all infants should be examined by 6 months of age for the presence of any eye disease or disorder. One in 677 infants has a treatable eye disease that can blind them as early as 2 months if not detected.

Also, the American Academy of Ophthalmology (AAO) recommends vision screening consisting of red light reflex testing be performed on all newborns, according to DOH officials.

⁵ S. 641.31(30), F.S.

⁶ Ch. 409, F.S.

⁷ For example, benefits under the Florida Kidcare Program for eligible children include vision screening (s. 408.815(2), F.S.).

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.

According to representatives with the Florida Chapter of the AAP, who oppose this legislation, the issue presented by this bill is the risk benefit of a *dilated* eye exam on all newborns versus performing an *undilated* exam. There is no question that the red-reflex test of the *undilated* eye should be (and currently is) performed at each well child checkup, however, requiring a *dilated* eye exam on newborns far exceeds the recommendations of the national AAP for well child care and carries some *increased risk* to the child, according to these representatives. For example, in order to do a *dilated* eye exam, the physician would need to use clips and other equipment to hold the eyelids open to perform the exam and there is a significant chance of damage to the eye as a result of the procedure. Also, *dilated* exams in an infant could require either general anesthesia or at least conscious sedation with its increased risks and costs. Further, pediatricians are not trained to do "dilated" eye exams and do not have the expertise to detect the specified ocular abnormalities mandated in the bill and would therefore refer many infants to an ophthalmologist for examination and consultation, thereby greatly increasing the cost of the procedure.

Proponents of this bill state that it is important to test for retinoblastoma (eye tumors) and other ocular diseases in infants and that most cases of the occurrence of this particular tumor occur in the first 2 years of life. These representatives assert that in newborns and infants, the pupil is so small that dilation is necessary in order for the ophthalmoscope to detect 100 percent of the tumors and that without dilation, only 30 percent of such tumors are identified.

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. (Source: House Committee on Insurance, Interim Project, "Managing Mandated Health Benefits: Policy Options for Consideration," January 28, 2000.)

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., relating to prophylactic requirements for eyes of infants, to require every baby born in a Florida hospital to receive, prior to being discharged from the hospital, a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope as the light source for detection of pediatric congenital and ocular abnormalities.

According to the American Academy of Pediatrics (AAP), the red reflex test is used to perform a screening evaluation for abnormalities of the back of the eye (posterior segment) and opacities in the visual axis, such as a cataract or corneal opacity. An ophthalmoscope focused on the pupil is used to view the eyes 12 to 18 inches away. The red reflex should be symmetrical. Dark spots in the red reflex, a blunted red reflex on one side, the lack of a red reflex, or the presence of a white reflex are all indications for referral. The AAP recommends an *undilated* exam with the performance of the red reflex test at each well child checkup between birth to 2 years of age.

Section 2. The bill creates an unnumbered section of law that requires the Medicaid program, all health insurers, and health maintenance organizations to provide coverage for the initial examination (a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope as the light source) and specified follow-up examinations for detecting pediatric congenital and ocular abnormalities in the newborn or infant.

The required examinations would be reimbursable under Medicaid as an expense compensated supplemental to the per diem rate for Medicaid patients enrolled in MediPass or patients covered by a fee-for-service program. For HMO Medicaid patients, providers would be reimbursed directly at the Medicaid rate. However, this service may not be considered a "covered service" for the purposes of establishing the payment rate for Medicaid HMOs. The bill further directs that all health insurers and HMOs must compensate providers for the specified examinations. Non-hospital based providers would be eligible to bill Medicaid for the professional and technical component of each procedure code. This mandate would not include supplemental policies that provide coverage only for specific diseases, hospital indemnity, or Medicare supplement.

Section 3. The bill reenacts s. 383.07, F.S., which states that "any person who fails to comply" with s. 383.04 (section 1 of the bill) through s. 383.06, is guilty of a second degree

misdemeanor, punishable as provided in s. 775.083. Since the bill (and current law) specifically refers to s. 775.083, F.S., (describes the amounts of fines for various degrees of misdemeanors and felonies), a person violating this provision would only be subject to a \$500 fine, in lieu of any punishment (60 days incarceration) which is provided under s. 775.082, F.S., (describes punishment for the specified degrees of misdemeanors and felonies).

Section 4. Amends s. 627.6416, F.S., which applies to individual health insurance policies pertaining to health insurers' coverage for child health supervision services, to require coverage for a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope at birth or by 8 weeks of age when birth occurs outside of the hospital setting; at 6 to 9 months of age; and at 15 to 18 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Section 5. Amends s. 627.6579, F.S., which applies to group health insurance policies, pertaining to coverage for child health supervision services, to require coverage for a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope at birth or by 8 weeks of age when birth occurs outside of the hospital setting; at 6 to 9 months of age, and at 15 to 18 months of age, to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Section 6. Amends s. 641.31, F.S., pertaining to health maintenance contracts, to require coverage for a dilated pupillary red-reflex eye examination performed using a direct ophthalmoscope at birth or by 8 weeks of age when birth occurs outside of the hospital setting; at 6 to 9 months of age; and at 15 to 18 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

Section 7. The bill provides a July 1, 2002, effective date.

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:

None.

C. Trust Funds Restrictions:

None.

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, 2002, 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 violative 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:

This bill would increase screening services available to newborns and infants up to age 18 months, resulting in earlier identification and treatment of serious eye conditions that could result in blindness or death, and reduction in health care costs associated with those conditions.

There could be a potential increase in health maintenance organization and private insurance costs as this bill mandates a new coverage requirement for such entities. According to officials with one of the largest HMOs in Florida, the increased costs associated with infant eye exams as contemplated under this bill are associated with the additional ophthalmology consultations rather than an actual charge for the dilated red reflex exam. Also, according to representatives with the Florida American Academy of Pediatrics (FAAP), pediatricians are not trained to do “dilated” eye exams and do not have the expertise to detect the specified ocular abnormalities mandated in the bill and would therefore refer many infants to an ophthalmologist for examination and consultation, thereby greatly increasing the cost of the procedure. The cost of a typical eye examination averages \$150, according to these representatives. These costs could ultimately be passed on to consumers in the form of higher premiums.

For persons without health insurance coverage, the costs of the examination in the hospital would be paid out of pocket, or be passed on to the hospital as uncompensated care.

C. Government Sector Impact:

According to the Department of Health, this bill could have an impact on county health department costs for those health departments that include well childcare in their services. The costs are difficult to determine at this time due to a lack of definition of the type of provider necessary to provide eye examinations with dilation.

The bill requires the Medicaid program to provide coverage for the required eye examinations and requires the reimbursement to be supplemental to the per diem rate. For Medicaid patients enrolled in HMOs, the reimbursement would be in addition to the capitated rate.

AHCA estimated Medicaid costs based on the following assumptions:

1. The current fees for the least invasive examination for eye health are reimbursed at \$32.
2. Medicaid covers an average of 70,000 births per year in Florida.
3. Staff other than hospital staff are required (pediatric ophthalmologist or optometrist) to perform at least part or all of the examination.
4. Fewer children remain Medicaid eligible or access the care offered at 6-9 months and at 15-18 months.

The potential cost are shown below:

	<u>*Medicaid Costs</u>	
Newborn screenings at birth	70,000 at \$32	\$2,400,000
Screenings at 6-9 months	50,000 at \$32	\$1,600,000
<u>Screenings at 15-18 months</u>	<u>35,000 at \$32</u>	<u>\$1,120,000</u>
Total Annual Cost to Medicaid:		\$5,120,000
General Revenue	(41.17%)	\$2,107,904
Medical Care Trust Fund	(58.83%)	\$3,012,096

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.

Furthermore, for Medicaid, as well as HMOs and insurers as noted above under Private Sector Impact, the potential fiscal impact of this bill depends on the staff used to provide these eye examinations in the inpatient hospital setting. If staff from the hospital perform this screening, Medicaid's per diem (daily reimbursement rate) may cover this examination; however, if ophthalmologists or optometrists are anticipated to come into the hospital to perform the procedure, reimbursement would have to be established.

The impact on the Department of Management Services, Division of State Group Insurance (DMS/DSGI) to include coverage of the eye exams required in this bill is unknown. This bill would require review of AHCA's premium for Title XIX and XXI recipients to determine the impact.

Determination of the type of provider necessary to provide the services, especially with regards to dilation, as mandated in the bill would need to be defined before a cost analysis could be developed, according to staff with AHCA.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 614.215, F.S., requires that any proposal for legislation which mandates a health benefit coverage must be submitted with a report to the Agency for Health Care Administration and the legislative committee having jurisdiction which assesses the social and financial impacts of the proposed coverage. *Such a report has not been submitted either to AHCA or committee staff.*

VIII. Amendments:

None.

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