SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2062

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

SUBJECT: Infant Eye Care

DATE: February 28, 2002 REVISED: _____ _____ _____ _____

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

I. Summary:

This bill requires every baby born in a 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.

The bill 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 requires health insurance policies and health maintenance contracts to 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.

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

II. Present Situation:

Prophylactic Required for the Eyes of Infants

Section 383.04, F.S., specifies: "Every physician, midwife, or other person in attendance at the birth of a child in the state is required to instill or have instilled into the eyes of the baby within 1 hour after birth an effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics for the prevention of neonatal ophthalmia. This

section does not apply to cases where the parents file with the physician, midwife, or other person in attendance at the birth of a child written objections on account of religious beliefs contrary to the use of drugs. In such case the physician, midwife, or other person in attendance shall maintain a record that such measures were or were not employed and attach thereto any written objection."

Ophthalmia is an infection of the conjunctiva, the mucous membrane that lines the inner surface of the eyelids and the forepart of the eyeball. The infection may be caused by N. gonorrhoeae, C. trachomatis, S. aureus, E. coli, and other micro-organisms. Complications of the infection can include corneal perforation, blindness and dacryocystitis.

Recommended Eye Exams for Newborns

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 evaluation 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. All infants should be examined by 6 months of age for the presence of any eye disease or disorder.

Currently, the American Academy of Ophthalmology (AAO) recommends vision screening consisting of red light reflex testing be performed on all newborns. Those with screening abnormalities, or who are considered high risk, are to be referred to an ophthalmologist, a medical doctor specializing in eye diseases and disorders, for further evaluation. Additional screening is recommended between 6 months to one year of age. The AAO recommends that a pediatrician, family physician, nurse practitioner, or physician assistant conduct these screenings.

An *ophthalmoscope* is a diagnostic instrument that is used to shine a light into a patient's eye. Light reflected from the patient's eye and projected into the examiner's eye enables the examiner to see the condition of the eye and to detect abnormalities. In the "red reflex" test that the AAP recommends for all newborns, a physician shines an ophthalmoscope into an infant's eye and sees the red reflection of the blood vessels of the retina. If the red reflex is not visible, further examination would be necessary. The red reflex test is done with the pupil of the infant's eye undilated. When the pupil is dilated—enlarged by the use of eye drops—the examiner is able to see more of the internal structure of the eye.

Health Insurance Coverage for Children

Section 627.6416, F.S., requires that health insurance policies providing coverage for a member of a family must provide that benefits applicable for children will cover child health supervision services from birth to age 16. Child health supervision services are provided by a physician, or supervised by a physician, and they include a physical exam, a developmental assessment, and appropriate immunizations and laboratory tests. The periodic visits and services must be in accordance with the Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics.

Section 641.31(30), F.S., requires a health maintenance contract that provides coverage for a member of a family to provide that benefits applicable for children will cover child health supervision services from the moment of birth to age 16. Child health supervision services are provided by a physician, or supervised by a physician, and they include a physical exam, a developmental assessment, and appropriate immunizations and laboratory tests. The periodic visits and services must be in accordance with the Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics.

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). For eye health care, patients must present with a suspected illness, vision problem or actual illness.

Florida Insurance Mandate Requirements

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

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

This bill amends s. 383.04, F.S., to require every baby born in a 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.

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 and any follow-up examinations required by law for detecting pediatric congenital and ocular abnormalities in the newborn or infant. This requirement does not include supplemental policies that provide coverage only for specific diseases, hospital indemnity, or Medicare supplement. The reimbursement for the required eye exams for Medicaid patients must be supplemental to the per diem rate. The service may not be considered a covered service for the purpose of calculating the payment rate for Medicaid HMOs.

The bill amends s. 627.6416, F.S., pertaining to health insurers' coverage for child health supervision services, and 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.

The bill reenacts s. 383.07, F.S., which makes it a second-degree misdemeanor to violate the provisions of ss. 383.04 – 383.06, F.S. A violation of those provisions is punishable under s. 775.083, F.S., which establishes a maximum fine of $500 for a misdemeanor of the second degree or a noncriminal violation.

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:

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

C. Trust Funds Restrictions:

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

D. Other Constitutional Issues:

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

To the extent that the bill, effective July 1, 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 costs and private insurance costs as this bill increases the coverage requirements of insurers. These costs could ultimately be passed 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.

The current fees for the least invasive examination for eye health are reimbursed at $32.

The Medicaid office in AHCA provided estimates of potential costs based on these assumptions:

1. Medicaid covers an average of 70,000 births per year in Florida.
2. Staff other than hospital staff are required (pediatric ophthalmologist or optometrist) to perform at least part or all of the examination.
3. 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:

Newborn screenings at birth	70,000 at $32	$2,400,000
Screenings at 6-9 months	50,000 at $32	$1,600,000
Screenings at 15-18 months	35,000 at $32	$1,120,000
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 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 and determine the impact. Determination of the type of provider necessary to provide the services, especially with regards to dilation, as stipulated in the bill would need to be defined before a cost analysis could be developed.

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.

VIII. Amendments:

None.