

The Florida Senate
HOUSE MESSAGE SUMMARY

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

[2021s01786.hms]

BILL: CS/CS/SB 1786

INTRODUCER: Appropriations Committee; Health Policy; and Senators Burgess and Book

SUBJECT: Florida Birth-Related Neurological Injury Compensation Plan

DATE: April 28, 2021

I. Amendments Contained in Message:

House Amendment 1 — 401309 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 is a delete-all amendment that makes the following revisions to CS/CS/SB 1786 (1st Eng.):

House amendment 1 revises the following provisions contained in the Senate Bill:

- Eliminates the retroactive application of the or parental award increase from \$100,000 to \$250,000, which the plan would provide to current plan members that received an award prior to January 1, 2021, so that all parents or legal guardians receive a payment sufficient to bring the total award up to \$250,000. The Senate Bill provides retroactive and prospective application of the increased parental award and provides an annual three percent increase of the benefit. The House amendment applies the \$250,000 award to pending petitions or claims filed on or after January 1, 2021.
- Eliminates the retroactive application of the death benefit increase from \$10,000 to \$50,000 to parents or legal guardians who received an award, and whose child died since the inception of the program to bring the total award paid to the parent or legal guardian up to \$50,000. The Senate Bill provides retroactive and prospective application of this increased benefit. The House amendment applies the increases in the death benefit to pending petitions or claims filed on or after January 1, 2021.
- Deletes annual psychotherapeutic services benefit of \$10,000 for immediate family members who reside with the plan participant.
- Deletes transportation-related assistance, including, but not limited to:
 - For the life of the child, reliable transportation for the care of the child and that will accommodate the child's needs, when it becomes necessary for wheelchair transportation. This may include the purchase of a van by the plan or modification of an existing vehicle; and
 - Reimbursement for all medically necessary travel, including travel to the pharmacy each month to purchase the child's prescription medications.

- Removes the increased housing assistance from a maximum of \$100,000 for the lifetime of the child, including home construction and modification costs. Currently, the plan provides a lifetime benefit of \$30,000.
- Removes the requirement for the plan to reimburse the actual expenses for diapers and baby formula without limitation, and to reimburse actual expenses for pureed baby food and other baby food based on the child's age or developmental stage.
- Removes the extension of time for filing a claim from five years to eight years after the birth of an infant alleged to have a birth-related neurological injury.
- Removes the requirement for the Division of Medical Quality Assurance of the Department of Health to conduct a review of claims in which a physician is involved in multiple claims to determine whether the physician's conduct establishes a pattern or practice subject to disciplinary action.
- Eliminates the requirement for the association's board to appoint an ombudsman to serve as an advocate for the parent or legal guardian of a plan participant.
- Removes the timeline and process for the plan to review, approve, or deny a request for reimbursement of actual expenses.

House Amendment 1 includes the following provisions that are similar or identical to provisions contained in the Senate Bill:

- A review by the Agency for Health Care Administration to the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer regarding Medicaid third party benefits payable by and recoverable from the plan by November 1, 2021.
- Creation of a code of ethics for specified staff and the board of directors of the association.
- The submission of an annual report by the association to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer regarding claims, reimbursement, and other information by November 1, 2021. The first annual report must include an actuarial analysis of the fiscal impacts of revising certain eligibility standards and benefits.
- A requirement for the Auditor General to conduct and complete an initial operational audit of the association by August 15, 2021, and conduct an audit at least once every three years thereafter.
- The addition of two members on the association's board of directors, specifically, a parent or a legal guardian representative of a plan participant and a representative of an advocacy organization for children with disabilities.
- Prohibition on the appointment of a participating physician to the board who is named in a pending petition for a claim and the prohibition on an appointed director who is a participating physician from voting on any board matter related to a claim accepted for an award for compensation.
- A mandate for the association to administer the plan in a manner that promotes and protects the health and best interests of children with birth-related neurological injuries.

The House Amendment adds the following provisions not contained in the Senate Bill:

- Limits the amount of time a member of the board may serve to no more than six consecutive years.

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- Prohibits the citizen representative on the board from having an affiliation with any one of the groups providing lists of names to the Chief Financial Officer for consideration as a board member.
 - Authorizes the Chief Financial Officer as well as the Governor to remove a director for cause.
 - Provides that board meetings are subject to public meeting requirements of s. 286.011, F.S., and requires advance notice of board meetings with exceptions, and posting of information relating to such meetings on the association's website.
 - Requires the association to furnish by mail or electronically a list of expenses compensable under the plan to each parent or legal guardian of a plan participant.
 - Requires the association to publish an annual report on its website, which includes information about board members and executive staff, compensation paid to each association employee, a summary of reimbursement disputes and resolutions, a list of expenses for attorney fees and lobbying fees, and other expenses to oppose each plan claim.
 - Specifies that a plan beneficiary may file a petition with the Division of Administrative Hearings to resolve a dispute relating to reimbursements of actual expenses.