



Am. Sub. H.B. 221

123rd General Assembly
(As Passed by the House)

Reps. Van Vyven, Callender, Cates, Mottley, Schuler, Terwilleger, Trakas,
Young, Tiberi, Olman

BILL SUMMARY

- Requires the Legislative Service Commission to review each bill receiving second consideration in either house of the General Assembly and to prepare a mandated benefits statement if it determines that the bill includes a mandated benefit.
- Requires the Superintendent of Insurance, upon receipt of a mandated benefits statement, to arrange for an independent healthcare actuarial review of the mandated benefit.
- Establishes the Ohio Mandated Benefits Review Council, and requires the Council to consider the findings of each independent healthcare actuarial review to determine whether the review met the requirements specified in the bill.
- Provides for the repeal of the bill's provisions on December 31, 2003.

CONTENT AND OPERATION

**Legislative Service Commission to prepare mandated benefits statements;
"mandated benefits" defined**

(secs. 103.144 and 105.01; Section 4)

The bill requires the Legislative Service Commission, within three business days after a bill receives second consideration (referral to a standing committee) in either house of the General Assembly, to review the bill to determine whether the bill includes a mandated benefit. If the Legislative Service Commission determines that the bill includes a mandated benefit, it must prepare, within that three-day period, a written mandated benefits statement setting forth the results of

this review and distribute copies of the statement to the chairperson of the committee to which the bill has been assigned, to the Ohio Mandated Benefits Review Council (*see*, "*Ohio Mandated Benefits Review Council*," below), and to the Superintendent of Insurance.

The bill defines a "**mandated benefit**" as the following, considered in the context of a sickness and accident insurance policy or a health insuring corporation policy, contract, or agreement:

(1) Any required coverage for a specific medical or health-related service, treatment, medication, or practice;

(2) Any required coverage for the services of specific health care practitioners;

(3) Any requirement that an insurer or health insuring corporation offer coverage to specific individuals or groups;

(4) Any requirement that an insurer or health insuring corporation offer specific health care services, treatments, or practices to existing insureds or enrollees;

(5) Any required expansion of, or addition to, existing coverage;

(6) Any mandated reimbursement amount to specific health care practitioners.

However, "mandated benefit" does not include any required coverage or offer of coverage, any required expansion of, or addition to, existing coverage, or any mandated reimbursement amount to specific practitioners, within the context of any public health benefits arrangement, including, but not limited to, the coverage of beneficiaries enrolled in Medicare or Medicaid.

The bill also requires the Legislative Service Commission, within three business days after an amendment to the bill is adopted, or a substitute bill is adopted, by the committee, to review the amendment or substitute bill to determine whether the amendment or substitute bill includes a mandated benefit. If the Legislative Service Commission determines that the amendment or substitute bill includes a mandated benefit, it is required to prepare, within that three-day period, a written mandated benefits statement if a statement was not previously prepared in connection with the bill, or, a revision of any previously issued mandated benefits statement, to reflect the changes proposed by the amendment or substitute bill. The new or revised mandated benefits statement is also to be distributed to

the chairperson of the committee to which the bill is assigned, to the Ohio Mandated Benefits Review Council, and to the Superintendent of Insurance.

Lastly, the bill permits the chairperson of a committee of either house of the 123rd General Assembly to request the Legislative Service Commission to review any bill that was assigned to the chairperson's committee *prior* to the bill's effective date, or to review any amendment to or substitute version of the bill that has been adopted by the committee, to determine whether the bill, amendment, or substitute bill includes a mandated benefit. If the Legislative Service Commission determines that the bill, amendment, or substitute bill includes a mandated benefit, it must prepare a written mandated benefits statement within three business days, and distribute copies of the statement to the chairperson of the committee and to the Superintendent of Insurance. The chairperson may also request the Superintendent to arrange for the performance of an independent health care actuarial review of the mandated benefit. The Superintendent must submit the findings of the review to the Mandated Benefits Review Council, as provided below.

Duties of the Superintendent of Insurance; independent healthcare actuarial reviews

(sec. 105.07)

The bill requires the Superintendent of Insurance, upon the Superintendent's receipt of a mandated benefits statement prepared by the Legislative Service Commission, to arrange for an independent healthcare actuarial review of the mandated benefit. The Superintendent is to retain one or more independent actuaries on a consulting basis to determine, pursuant to the bill's requirements, the medical efficacy and social and financial impact of the mandated benefit. The bill requires the Superintendent to provide the actuary or actuaries with copies of any information submitted by the interested parties related to the proposed mandated benefit and to assist them in obtaining any additional information needed.

The bill requires the actuaries performing reviews of mandated benefits to do all of the following:

- (1) Use appropriate assumptions that accurately demonstrate the social and financial impact of the mandated benefit;
- (2) Determine to what extent the absence of the mandated benefit results in undue hardship to the general population;
- (3) Determine the extent of public demand for the mandated benefit, and to what extent voluntary coverage of the benefit is available;

(4) Determine the extent of public demand for inclusion of the mandated benefit in arrangements negotiated through collective bargaining;

(5) Consult with relevant medical experts, attorneys, and other professionals knowledgeable in matters related to the performance of an actuarial review of a mandated benefit;

(6) Consider the results of at least one professionally acceptable controlled trial and the results of any other relevant peer reviewed research specifically centered around the benefit;

(7) Consider any information submitted by interested parties related to the proposed mandated benefit;

(8) If applicable, determine the extent to which: coverage will improve the quality of life of those receiving the covered treatment; coverage will increase or decrease the cost of the treatment or service; a similar mandated benefit in other states has improved the quality of life of those receiving the covered treatment, and has affected charges, costs, utilization, and payments for services and treatments in those states; coverage will increase or decrease the appropriate use of the treatment or service; coverage will increase or decrease the administrative expenses of insurance companies and health insuring corporations; coverage will increase or decrease premiums; existing mandated benefits meet the proposed requirements; small employers, medium-sized employers, and large employers will be financially impacted; and coverage will impact the total cost and quality of health care.

Within 45 days after receiving a mandated benefits statement prepared by the Legislative Service Commission, the Superintendent must submit the findings of the actuarial review to the Mandated Benefits Review Council (*see, "Ohio Mandated Benefits Review Council,"* below). The bill requires the Superintendent to provide any appropriate professional, technical, and clerical support from the Superintendent's staff needed by the Council to fulfill its duties.

Ohio Mandated Benefits Review Council

Council membership

(sec. 105.02(A) and (B))

The bill creates the Ohio Mandated Benefits Review Council consisting of the following 15 members:

(1) Six voting members, including: (a) three members of the Senate, appointed by the President of the Senate, not more than two of whom may be members of the same political party, and (b) three members of the House of Representatives, appointed by the Speaker of the House of Representatives, not more than two of whom may be members of the same political party.

(2) Nine additional members, who shall not vote unless a tie vote is cast by the voting members, including:

(a) Three representatives of consumers, appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be members of the same political party. None of the representatives of consumers are to be employed by, or in any way affiliated with or biased toward, any of the members of the Council representing health care providers, health insuring corporations, sickness and accident insurers, or employers. One of these members is to represent the interests of public employers and their employees as consumers of health care.

(b) Two representatives of health care providers, one of whom is to be appointed by the President of the Senate and one of whom is to be appointed by the Speaker of the House of Representatives;

(c) One representative of health insuring corporations, appointed by the President of the Senate;

(d) One representative of sickness and accident insurers, appointed by the Speaker of the House of Representatives;

(e) One representative of Ohio employers employing 50 or fewer employees, appointed by the President of the Senate, which employer is not a health care provider, a health insuring corporation, or a sickness and accident insurer;

(f) One representative of Ohio employers employing more than 50 employees, appointed by the Speaker of the House of Representatives, which employer is not a health care provider, a health insuring corporation, or a sickness and accident insurer.

Duties of the Council

(secs. 105.05 and 105.07)

The Council is required to hold a public meeting to consider the findings of an independent healthcare actuarial review performed under the bill. The Council

is authorized to administer oaths and to hold public hearings at such times and places within Ohio as may be necessary to carry out the purposes and intent of the bill's provisions.

Within 30 days after receipt of the findings of the independent healthcare actuarial review, the Council must consider the findings and determine whether the review met the requirements specified in the bill (see above). The Council is to vote on this issue and forward the outcome of the vote along with the findings to the chairperson of the committee to which the bill has been assigned. If a tie vote is cast by the voting members, the nine additional Council members are required to cast a vote on whether the review met the bill's requirements. The majority vote of the additional Council members is to be counted as a single vote for the purpose of breaking the tie vote cast by the voting members.

In addition to carrying out these mandatory duties, the Council may, from time to time, review the *existing* provisions of the Revised Code that include mandated benefits and request the Superintendent to arrange for an independent healthcare actuarial review of the mandated benefits. Upon receipt of the Council's request, the Superintendent is required to arrange for the performance of an independent healthcare actuarial review, which review is to be conducted in the same manner provided for the performance of an actuarial review following the Legislative Service Commission's preparation of a mandated benefits statement (see above). The Council is required to forward its findings regarding these mandated benefits to the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the committees of the General Assembly that have primary jurisdiction over health insurance.

The Council is required to prepare an annual summary of all findings with respect to proposed and existing mandated benefits, and to submit a copy of that summary to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

Organization of the Council; meetings

(secs. 105.02 (C) to (E) and 105.03; Section 3)

The bill requires that initial appointments to the Council be made no later than 60 days after its effective date.

The following rules apply to those Council members appointed from outside the Ohio House of Representatives and Senate:

(1) Of the initial appointments, three appointments are to be to a term ending June 30, 2001, three to a term ending June 30, 2002, and three to a term

ending June 30, 2003. Thereafter, terms of office are for three years, with each term ending on the same day of the same month as did the term it succeeds;

(2) Each member is to hold office from the date of the appointment until the end of the term for which the member was appointed;

(3) Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed is to hold office as a member for the remainder of that term;

(4) A member is to continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of 60 days has elapsed, whichever occurs first.

Council members appointed from the membership of the Ohio House of Representatives or the Senate are to serve during their terms as members of the General Assembly and until their successors are appointed and qualified, notwithstanding the adjournment of the General Assembly of which they are members or the expiration of their terms as members of such General Assembly.

The bill provides that members of the Council are to serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties. Vacancies on the Council to be filled in the manner provided for original appointments.

Meetings of the Council are to be called in such manner and at such times as prescribed by rules adopted by the Council. A majority of the membership of the Council constitutes a quorum and no action may be taken by the Council unless the action is approved by a majority of the voting members. If a tie vote is cast by the voting members, the nine additional Council members are required to cast a vote on whether to approve the action. The majority vote of the additional Council members is to be counted as a single vote for the purpose of breaking the tie vote cast by the voting members.

The Council is required to organize by selecting from among the voting members a chairperson, a vice-chairperson, and such other officers as it considers necessary. The Council is required to adopt rules for the conduct of its business and the election of its officers. Each Council member, before entering upon the member's official duties, must take and subscribe to an oath of office, to uphold the constitutions and laws of the United States and Ohio and to perform the duties of the office honestly, faithfully, and impartially.

Scheduled repeal of the bill's provisions

(Section 2)

The bill provides for the repeal of all of the Revised Code sections enacted by the bill, effective December 31, 2003.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-03-99	p. 261
Reported, H. Insurance	05-12-99	pp. 644-645
Amended and informally passed House	10-12-99	pp. 1241-1242
Motion to reconsider	10-19-99	pp. 1273-1274
Passed House (59-36)	10-19-99	pp. 1274-1280

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