Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 493** DATE: **December 17, 2008**

STATUS: **As Enacted – Effective April 7, 2009** SPONSOR: **Rep. Daniels**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Revises the law regarding billing for anatomic pathology services and makes changes to health insurance laws**

State Fiscal Highlights

STATE FUND	FY 2009 and FUTURE YEARS
Fund 5C6 (State Medical Board Operating Fund)	
Revenues	- 0 -
Expenditures	Potential minimal increase to address violations
Fund 5540 (Department of Insurance Operating Fund)	
Revenues	- 0 -
Expenditures	Potential minimal decrease due to hearing exemption
	Potential minimal increase to conduct an analysis

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- The bill may result in a minimal increase in administrative costs for the State Medical Board associated with addressing violations of the provisions regarding billing for anatomic pathology services.
- The bill may result in a minimal decrease in expenditures for the Department of Insurance due to the exemption from the requirement to hold a hearing on mandated health benefits for routine patient care during cancer clinical trials.
- The bill requires the Department of Insurance to conduct an analysis of the impact of the requirements that prohibit health benefit plans and public employee benefit plans from excluding coverage for a loss or expense that is sustained due to the insured's use of alcohol, drugs, or both, if the loss or expense would otherwise be covered under the plan. This provision will likely result in a minimal increase in administrative costs for the Department, which can be absorbed within existing resources.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 and FUTURE YEARS
Counties, Municipalities, Townships, and School Districts	
Revenues	- 0 -
Expenditures	Potential increase

- The provision in the bill that prohibits public employee benefit plans from excluding an insured's coverage for a loss or expense when the loss was sustained due to the insured individual being under the influence of alcohol or drugs may increase costs for local governments to provide health benefits for their employees and dependents.

Detailed Fiscal Analysis

Anatomic pathology services

The bill establishes restrictions regarding billing for anatomic pathology services. The bill prohibits a clinical laboratory or a physician from presenting, or causing to be presented, a claim, bill, or demand for payment for anatomic pathology services to any person other than the following: the patient or other person responsible for the patient's bills, the patient's insurer or other third-party payor, a hospital or clinic that orders the services, a referring clinical laboratory, or a governmental agency or person acting on behalf of such an agency. The bill also prohibits a physician from charging, billing, or otherwise soliciting payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the direct supervision of the physician in accordance with federal law governing the certification of clinical laboratories.

The bill specifies that a physician who performs the professional component of an anatomic pathology service may bill for the amount incurred in having the technical component of the service performed by a clinical laboratory or another physician, or for obtaining another physician's consultation regarding the patient specimen. In addition, the bill permits a physician to bill for having a clinical laboratory or another physician perform an anatomic pathology service on a dermatology specimen, provided that the name and address of the clinical laboratory or physician who performed the service, and the amount paid or charged are disclosed to the person being billed.

OAC 5101:3-11-08 specifies the limits on reimbursement for anatomic pathology services for patients receiving services under the Medicaid program. This bill will not affect state costs for the Medicaid program.

Medical board disciplinary action

The bill also authorizes the State Medical Board to take disciplinary action against a physician who violates the provisions of the bill. Under current law, the State Medical Board does not have the authority to take action directly related to billing. Presently, the Board generally directs individuals with billing disputes to the professional associations, Department of Insurance, or the provider in question. The Board does not expect a significant number of complaints to be filed related to these provisions. However, if a violation occurs, there may be a minimal increase in administrative costs to the Board associated with taking disciplinary action.

Health insurance

Hearing on mandated health benefits

The bill specifies that a requirement in current law that the Superintendent of Insurance hold a hearing on laws that contain a provision for mandated health benefits does not apply to a provision of Sub. S.B. 186 of the 127th General Assembly. S.B. 186 prohibited health insurers from denying coverage for routine patient care of cancer patients that participate in certain clinical trials if they provide such coverage for cancer patients that do not participate in such trials. Such a prohibition may fit the definition of a mandated health benefit in section 3901.71(A) of the Revised Code. If it were determined to be a mandated health benefit, the Superintendent would have been required under section 3901.71(B) of the Revised Code to hold a hearing to determine whether the prohibition could be "applied fully and equally in all respects to employee benefit plans" that are exempt from state regulation under the federal Employee Retirement Income Security Act (ERISA) before the prohibition could be applied to any health insurance policy, contract, plan, or other arrangement.

This provision effectively specifies that the Superintendent will not be required to hold a hearing related to the provisions of S.B. 186. This could reduce departmental expenditures from the Department of Insurance Operating Fund (Fund 5540).

Most favored nation clauses in health care contracts

The bill expands the existing moratorium created by Sub. H.B. 125 of the 127th General Assembly on the use of Most Favored Nation (MFN) clauses in health care contracts between contracting entities and providers other than hospitals from two to three years. There is a potential indirect fiscal effect on political subdivisions due to the bill's affect on relative bargaining power between medical providers and insurers. As a result, this provision could have the potential to affect health insurance premiums paid by employers, including state and local governments, to provide health benefits to workers and their dependents. LSC is not aware of how widespread the use of MFN clauses is in Ohio and is unable to determine the magnitude of any potential indirect fiscal effect.

Prohibition of excluding coverage for injuries resulting from use of alcohol or drugs

The bill prohibits health benefit plans and public employee benefit plans from excluding an insured's coverage for a loss or expense when the loss was sustained due to the insured individual being under the influence of alcohol, drugs, or both. According to the state's health benefits administrator at the Department of Administrative Services, the state's plans are currently providing coverage for injuries resulting from use of alcohol, drugs, or both. Therefore, there would be no fiscal effect to the state. However, it could increase costs to local governments of providing health insurance benefits to their employees and dependents, if they do not yet provide such coverage. The magnitude of the cost increase to local governments is undetermined.

In addition, the bill requires the Department of Insurance to conduct an analysis of the impact of the requirements that prohibit health benefit plans and public employee benefit plans from excluding coverage for a loss that is sustained due to the insured's use of alcohol, drugs, or both, if the loss would otherwise be covered under the plan. It also requires the Department to prepare a written report of its findings and submit the report to the Governor and General Assembly. The bill specifies that the analysis should be conducted not later than four years after the effective date of this bill. This provision will result in a minimal increase in administrative costs for the Department, which can be absorbed within existing resources.

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