



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 361 of the 130th G.A.](#)

Date: February 18, 2014

Status: As Introduced

Sponsor: Reps. Gonzales and Smith

Local Impact Statement Procedure Required: Yes

Contents: To prohibit health insurers from excluding coverage related to acquired brain injuries

State Fiscal Highlights

- The bill could increase costs to the state of providing health benefits to its employees and their dependents, if the required coverage is not currently covered by the health benefit plan. The costs would be paid by the State Employee Health Benefit Fund (Fund 8080), of which somewhat less than half would be derived from GRF-supported payroll, with various state funds providing the rest.
- The bill provides an exception to insurers if costs related to the required coverage exceed specified limits. Thus, any increase in costs associated with the bill requirements would be limited to 1% in the annual premiums or rates charged by the state health benefit plan. This provision ensures the state's costs do not increase by more than \$6 million, at least in the first year of implementation.
- The bill may increase the Department of Insurance's administrative expenses related to various requirements under the bill. Any such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

Local Fiscal Highlights

- The bill would likely increase costs to counties, municipalities, townships, and school districts statewide of providing health benefits to their employees and their dependents. LSC staff could not determine the magnitude of the fiscal impact due to lack of information on the number of individuals under local governments' health benefit plans that are affected by "acquired brain injuries," as defined by the bill.
- The bill provides an exception to insurers if costs related to the required coverage exceed specified limits. Thus, any increase in costs associated with the bill requirements would be limited to 1% in the annual premiums or rates charged by local governments' health benefit plans.

Detailed Fiscal Analysis

The bill prohibits an insurer from excluding coverage for services related to "acquired brain injuries" in their policies, contracts, agreements, or plans, except when insurer costs exceed specified limits. The bill applies to health insuring corporations (HICs), sickness and accident insurers, multiple employer welfare arrangements, and public employee benefit plans. The bill specifies that an acquired brain injury is a brain injury caused by events occurring after birth. The covered services may be subjected to deductibles, copayments, and coinsurance. The bill specifies the following services must be covered by such insurers if they are considered medically necessary by a treating physician and result from or are related to an acquired brain injury: (1) cognitive rehabilitation therapy, (2) cognitive communication therapy, (3) neurocognitive therapy and rehabilitation, (4) neurobehavioral, neurophysiological, neuropsychological, and psychophysiological testing or treatment, (5) neurofeedback therapy, (6) remediation, (7) community reintegration services, and (8) post-acute rehabilitation care treatment.

Under the bill, an insurer is not required to provide benefits for such covered services if it is able to document, based on claims experience, that its costs increased by 1% or more due to the bill's requirements. The bill specifies a procedure for documenting such cost increases, that includes a determination by the Superintendent of Insurance that the cost increase has been demonstrated by experience.

The bill includes more detailed provisions about its requirements, regarding periodic reevaluations of care for an enrollee, and facilities at which treatment is received. In addition, to ensure the health and safety of enrollees, the bill specifies that the Superintendent may require a facility providing post-acute rehabilitation treatment have a rehabilitation program for acquired brain injury that is accredited by the commission on accreditation of rehabilitation facilities or another nationally recognized accreditation organization. Under existing law, residential care facilities and freestanding inpatient rehabilitation facilities are licensed by the Ohio Department of Health.

The bill requires the Superintendent to adopt rules requiring insurers subjected to the requirements under this bill to provide adequate training to personnel responsible for preauthorization of coverage or utilization reviews to prevent wrongful denial of the coverage required under this bill and to avoid confusion of medical benefits with mental health benefits. The bill specifies that the Superintendent must consult with the existing Brain Injury Advisory Committee at the Ohio State University College of Medicine before adopting such rules.

Furthermore, the bill specifies that the Department of Insurance is not required to conduct an analysis of the impact of the bill's requirements related to services associated with acquired brain injuries. Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to any policy, contract,

plan, or other arrangement providing sickness and accident or other health benefits until the Superintendent determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state, or by any agency or instrumentality of the state or any political subdivision of the state.

Fiscal effect

The bill would likely increase costs to the state and local governments to provide health benefits to employees and their dependents. If some of the required coverage associated with acquired brain injuries under this bill already is fully or partially covered in some public employee benefit plans, the impact on their costs would be less. Due to the coverage exception under the bill, any increase in insurance costs that would be incurred by the plans due to the requirements under this bill would be limited to 1% per year.

Currently, the state administers a self-insured health benefits plan in which the state pays all benefit costs directly while contracting with private insurers to administer the benefits. The costs are paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through employee payroll deductions and state agency contributions toward their employees' health benefits.¹ Approximately half of the contributions come out of GRF while various other state funds provide the rest. In FY 2013, the state spending from Fund 8080 was \$585.3 million.² Assuming the coverage for services related to acquired brain injuries would increase the state health benefit plan by up to 1% per year, the estimated cost to the plan could be up to nearly \$6 million per year.

Currently, LSC staff is unable to estimate the bill's fiscal impact on local governments due to lack of information on the specific benefits offered under their employee health benefit plans and the amount of annual premiums paid by local government plans.

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¹ Currently, full-time employees pay 15% of the premium cost, with state agencies paying the remainder. Part-time employees pay a larger percentage, dependent upon hours worked each week.

² Including expenditures related to dental and vision benefits.