

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HSQS 12-02 Developmental Disabilities Compact Workgroup

SPONSOR(S): Health & Human Services Quality Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Quality Subcommittee		Poche	Calamas

SUMMARY ANALYSIS

PCB HSQS 12-02 repeals s. 624.916, F.S., relating to the Developmental Disabilities Compact. The statute required the Office of Insurance Regulation (OIR) to convene a workgroup to negotiate a binding agreement among participants (large group health insurers and health maintenance organizations) to provide coverage of evaluation and treatment for developmental disabilities. Participants in the agreement would be exempt from the provisions of the Steven A. Geller Autism Act because the agreement covered autism spectrum disorder, as well as other developmental disabilities.

One company became a participant in the agreement prior to the April 1, 2009 deadline. The company had no claims for evaluation or treatment of developmental disabilities. The company subsequently lost its certificate of authority to operate in Florida and no longer exists. As a result, there are no signatories to the compact, which is now moot.

The bill has an insignificant, but indeterminate, positive fiscal impact on state government.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 624.916, F.S., called the “Window of Opportunity Act”¹, required the Office of Insurance Regulation (OIR) to convene a workgroup for the purpose of developing and executing a compact including a binding agreement among the participants relating to insurance and access to services for persons with developmental disabilities.² Members of the workgroup included:

- Representatives from all health insurers licensed under chapter 624;
- Representatives from all health maintenance organizations licensed under part I of chapter 641;
- Representatives of employers with self-insured health benefit plans;
- Two designees of the Governor, one of whom must be a consumer advocate;
- A designee of the President of the Senate; and
- A designee of the Speaker of the House of Representatives.

The agreement was to include:

- A requirement that each participant agree to increase coverage for behavior analysis and assistant services³, speech therapy, physical therapy, and occupational therapy as medically necessary to treat a developmental disability;
- Procedures for notice to policyholders setting out the amount, scope, and conditions under which coverage is provided for the specified therapies and treatments;
- Penalties for documented cases of denial of claims for medically necessary treatment for a developmental disability; and
- Proposals for new insurance products that may be offered with traditional insurance coverage to more effectively spread risk and costs associated with providing coverage for developmental disabilities.

The Window of Opportunity Act was enacted concurrently with the Steven A. Geller Autism Coverage Act (the Act).⁴ The Act establishes insurance coverage mandates for group health insurers and health maintenance organizations for evaluation and treatment of autism spectrum disorder. The Act requires coverage of well-baby and well-child screening for autism spectrum disorder⁵ and speech therapy, occupational therapy, physical therapy, and applied behavior analysis.⁶ Participants who signed on to the compact would be exempt from the coverage mandates, beginning on April 1, 2009. Provisions of the Act prohibit enforcement of its terms against an insurer or health maintenance organization that is a signatory to the compact no later than April 1, 2009.⁷

OIR was required to provide the results of negotiations for the compact to the Governor, the President of the Senate, and the Speaker of the House of Representatives and, beginning in February 2009, to

¹ S. 624.916(1), F.S.

² S. 624.916(2), F.S.

³ S. 624.916(4)(a) and (b), F.S., refers to s. 409.815(2)(r), F.S., for the definition of the terms “behavior analysis” and “behavior assistant services”. However, that section of law sets a lifetime maximum coverage amount for health benefits for covered children under the Florida KidCare Act of \$1,000,000. The term “applied behavior analysis” is defined within the Steven A. Geller Autism Act. The term “behavior assistant services” is not defined in Florida Statutes.

⁴ S. 627.6686, F.S., and s. 641.31098, F.S.

⁵ S. 627.6686(3)(a), F.S., and s. 641.31098(3)(a), F.S.

⁶ S. 627.6686(3)(b), F.S. and s. 641.31098(3)(b), F.S.

⁷ S. 627.6686(1), F.S., and s. 641.31098(9), F.S.

report yearly on the implementation of the agreement.⁸ Lastly, OIR is required to monitor participation in the agreement, compliance with the terms of the agreement, and the effectiveness of the agreement, and report its findings on an annual basis.⁹

On December 17, 2008, the Developmental Disabilities Compact Workgroup adopted the Developmental Disabilities Compact.¹⁰ Total Health Choice, Inc., a health maintenance organization that operated in Broward and Dade counties, was the only signatory to the compact, signing it on March 24, 2009.¹¹ Total Health Choice, Inc., had 160 eligible lives enrolled in large group coverage which were subject to the terms of the agreement.¹² OIR reviewed the claims submitted by those eligible individuals and determined that none of them had been diagnosed with a developmental disability at 8 years of age or younger, resulting in no services provided and no claims denied for services.¹³

According to OIR, effective April 30, 2010, the certificate of authority of Total Health Choice, Inc., was suspended and the company was winding down its commercial operation.¹⁴ The company no longer operates in Florida.¹⁵ As a result, there are no signatories to the Developmental Disabilities Compact.

Effect of Proposed Changes

PCB HSQS 12-02 repeals the Developmental Disabilities Compact and deletes applicable cross-references found in the Act. There are no signatories to the compact. For the brief time period during which Total Health Choice, Inc., was the sole signatory, there were no claims for service pursuant to the terms of the compact. Because there is no signatory to the compact that has availed itself of the provisions exempting it from the coverage mandates contained in the Act, the compact is moot.

The bill has no impact on the coverage mandates contained in the Act.

B. SECTION DIRECTORY:

Section 1: Repeals s. 624.916, F.S., relating to developmental disabilities compact.

Section 2: Amends s. 627.6686, F.S., relating to coverage for individuals with autism spectrum disorder required; exception.

Section 3: Amends s. 641.31098, F.S., relating to coverage for individuals with developmental disabilities.

Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁸ S. 624.916(5), F.S.

⁹ S. 624.916(6), F.S.

¹⁰ The Developmental Disabilities Compact can be found at <http://www.floir.com/siteDocuments/DDCProposal-A.pdf>.

¹¹ Florida Office of Insurance Regulation, *2010 Developmental Disabilities Compact Annual Report*, page 1 (February 15, 2010)(available at <http://www.floir.com/siteDocuments/DDCWGReport02152010.pdf>).

¹² *Id.* at page 2.

¹³ *Id.* at page 3.

¹⁴ Florida Office of Insurance Regulation, *2011 Developmental Disabilities Compact Annual Report*, page 2 (February 14, 2011)(available at <http://www.floir.com/siteDocuments/DDCWGReport02142011.pdf>).

¹⁵ Telephone conference between Michelle Robleto, Deputy Insurance Commissioner of Life and Health Insurance, Florida Office of Insurance Regulation, and Health and Human Services Quality Subcommittee staff on January 11, 2012.

2. Expenditures:

Repeal of s. 624.916, F.S., would eliminate the reporting requirement for OIR¹⁶, resulting in an insignificant, but indeterminate, positive fiscal impact on OIR.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁶ See *supra* at FN 7.