

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1137 – SB 1298

March 9, 2014

**SUMMARY OF BILL:** Requires a health insurance contract or policy, issued on or after January 1, 2014, to provide benefits and coverage for the treatment of autism spectrum disorders that are at least as comprehensive as those provided for other neurological disorders. Prohibits the exclusion or denial of treatment or imposition of dollar limits, deductibles, or coinsurance based solely on the diagnosis of autism spectrum disorder. Prohibits the exclusion or denial of coverage for medically necessary behavioral therapy services. Benefits are subject to deductible and copayment requirements and benefit limits. Establishes maximum yearly benefits for behavioral therapy of \$50,000 for an eligible person up to nine years of age and \$25,000 for an eligible person between the ages of nine and 16.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – Exceeds \$78,254,000/FY13-14**  
**Exceeds \$154,587,500/FY14-15 and Subsequent Years**

**Increase Federal Expenditures - \$144,593,900/FY13-14**  
**\$289,187,700/FY14-15 and Subsequent Years**

**Increase Local Expenditures - \$95,000/FY13-14\***  
**\$190,000/FY14-15 and Subsequent Years\***

**Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111):** Such legislation will result in an increase in the cost of health insurance premiums for autism benefits being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be between one and three percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) and a three percent increase could range between \$154 (single coverage) and \$414 (family coverage) on average depending on the type of plan.

Assumptions:

- According to the Centers for Disease Control (CDC), the prevalence of autism spectrum disorders is one in 88 children at the age of eight according to the CDC Autism and

Developmental Disabilities Monitoring Network. The CDC states that most individuals are diagnosed with an autism spectrum disorder by this age.

- According to the Bureau of TennCare (the Bureau), there are 516,114 TennCare enrollees between the ages of 3 and 15. The Bureau assumes that 5,865 enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes 80 percent of these enrollees potentially suffering from an autism spectrum disorder, or 4,692 enrollees, will be diagnosed and treated under the provisions of the bill.
- The Bureau assumes that the mandated applied behavior analysis (ABA) treatment will cost \$100 per hour.
- The Bureau estimates that the mandated ABA treatment will cost \$431,664,000 [4,692 x (20 hours x 46 weeks x \$100 supervised therapy)] for children between the ages of three and 15.
- According to the Bureau, there are 84,862 enrollees between the ages of 16 and 18. The Bureau assumes that 964 enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes 5 percent, or 48, of these enrollees potentially suffering from an autism spectrum disorder will seek the mandated ABA treatment under the provisions of the bill.
- The Bureau estimates that the mandated ABA treatment will cost \$4,416,000 [48 x (20 hours x 46 weeks x \$100 supervised therapy)] for children between the ages of 16 and 18.
- According to the Bureau, there are 522,364 enrollees aged 19 and older. The Bureau assumes 5,936, enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes one percent, or 59, of these enrollees potentially suffer from an autism spectrum disorder will seek the mandated ABA treatment under the provisions of the bill.
- The Bureau estimates that the mandated ABA treatment will cost \$5,428,000 [59 x (20 hours x 46 weeks x \$100 supervised therapy)] for adults.
- It is estimated that the total cost to the TennCare program of the mandated ABA treatment will be \$441,508,000 (\$431,664,000 + \$4,416,000 + \$5,428,000).
- Of this amount, \$154,240,820 will be state expenditures at 34.935 percent and \$287,267,180 will be federal expenditures at 65.065 percent.
- It is assumed that the State, Local Education, and Local Government plans administered as a uniform group benefit by the Department of Finance and Administration, Benefits Administration, are subject to the provisions of the bill.
- According to Benefits Administration, autism spectrum treatment as defined by the bill, including the mandated ABA treatment, will cost at least \$20,000 per member per year. The plans administered by Benefits Administration are funded by member premiums. The state contributes to State Plan and Local Education Plan member premiums.
- According to Benefits Administration, there are 48,801 covered State Plan members under 26 years of age. Benefits Administration assumes that one percent, or 488, of those members will or could be diagnosed with autism spectrum disorders.

- Benefits Administration assumes that at least 21 percent, or 102 members, will seek treatment under the provisions of the bill increasing State Plan costs by at least \$2,040,000 ( $\$20,000 \times 102$  members).
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in an increase in state expenditures of at least \$1,632,000 ( $\$2,040,000 \times 0.80$ ).
- According to Benefits Administration, there are 36,801 covered Local Education Plan members under 26 years of age. Benefits Administration assumes that one percent, or 368, of those members will or could be diagnosed with autism spectrum disorders.
- Benefits Administration assumes that at least 21 percent, or 77 members, will seek treatment under the provisions of the bill increasing Local Education Plan costs by at least \$1,540,000 ( $\$20,000 \times 77$  members).
- According to Benefits Administration, the state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in an increase in state expenditures of at least \$635,250 [ $(\$1,540,000 \times .75 \times .45) + (\$1,540,000 \times .25 \times .30)$ ].
- It is estimated that the total increase in state expenditures resulting from increased premiums will be at least \$2,267,250 ( $\$1,632,000 + \$635,250$ ).
- It is estimated that there are 4,300 covered Local Government Plan members less than 26 years of age. Based on the Benefits Administration assumption it is estimated that one percent, or 43, of those members will or could be diagnosed with autism spectrum disorders.
- It is estimated that at least 21 percent, or 9 members, will seek treatment under the provisions of the bill increasing Local Government Plan costs by at least \$180,000 ( $\$20,000 \times 9$  members).
- The average local government contribution to member premiums is unknown. It is estimated that participating local governments contribute 50 percent to member premiums and that participating local government expenditures will increase by at least \$90,000.
- Any local government health plans that are not part of the state uniform group benefit will incur an estimated increase in expenditures that will exceed \$100,000 for covering the mandated benefits.
- The Department of Commerce and Insurance is responsible for regulation of the provisions of the bill. Any cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Federal 45 C.F.R. §155.70 authorizes a state to require a qualified health plan (QHP) to offer benefits in addition to the essential health benefits. If the state-required benefits are in addition to the essential health benefits, then the state must make payments to defray the cost of the additional required benefits to an enrollee or directly to the QHP issuer on behalf of the enrollee.
- It is assumed that the state will not be subject to an increase in expenditures related to the mandated benefits under this rule. The bill expressly states that any benefits required by the bill that exceed the required essential health benefits will not be mandated for QHPs offered through the exchange.

- An enrollee is defined as an individual who has been determined eligible to enroll through the Exchange in a QHP in the individual market or an individual employed by a qualified employer who has been offered health insurance coverage by such qualified employer through the SHOP. It is assumed that the state will not be responsible for defraying the cost of the additional required benefits to QHPs offered outside of the exchange until clear guidance providing otherwise is issued by the federal government.
- The total increase in state expenditures is estimated to be at least \$156,508,070 (\$154,240,820 + \$2,267,250).
- The total increase in federal expenditures is estimated to be at least \$287,267,180.
- The total increase in local government expenditures is estimated to be at least \$190,000 (\$90,000 + \$100,000).
- The provisions of the bill apply to any policy that delivered, issued for delivery, or renewed on and after January 1, 2014; therefore, the fiscal impact in FY13-14 will be for one-half of a year resulting in:
  - State expenditures of \$78,254,035 (\$156,508,070 x 0.50);
  - Federal expenditures of \$144,593,870 (\$289,187,740 x 0.50); and
  - Local expenditures of \$95,000 (\$190,000 x 0.50).
- Private sector health insurance premium impact: The provisions of the bill will result in an increase in covered individuals receiving benefits for autism spectrum disorders. Health insurance premiums will increase to cover the costs of the additional benefits. According to the *Health Insurance Mandates in the States 2010* report by the Council for Affordable Health Insurance (CAHI), the estimated cost to health insurance for autism benefits ranges from one to three percent of the total premiums nationwide. It is estimated that the increase in Tennessee to each individual's total premium will be similar to those nationally. Based on a 2011 report by the Fiscal Review Committee staff, a one percent increase in premium rates will range between \$50 (single coverage) and \$140 (family coverage), and a three percent increase in premium rates will range between \$154 (single coverage) and \$414 (family coverage) on average depending on the type of plan.

\*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **IMPACT TO COMMERCE:**

**Other Impact to Commerce - Due to a number of unknown factors an estimated impact to commerce and jobs cannot be quantified. The net impact to the insurance and healthcare industries is estimated to be positive. The net impact to businesses, based on adjusted insurance premiums, is estimated to be negative.**

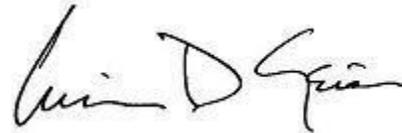
Assumptions:

- The proposed legislation authorizes small businesses to apply for a waiver with the Department of Commerce and Insurance to opt out of the mandate if premium costs increase to two and one-half percent or more over a 12-month period of time.

- It is estimated that any companies that are currently providing health insurance coverage to their employees will incur an increase in costs if ASD coverage is not currently offered at the level mandated by the proposed legislation. Any increase is estimated to be less than one percent. Because actual business expenditures for businesses are unknown, an estimated cost cannot be quantified.
- Businesses in the health care industry that provide ASD services will incur an increase to business revenue because more people will be able to receive services if they are covered by insurance.
- An exact impact to commerce and jobs cannot be determined.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/kml