Synopsis: Requires health benefits coverage for certain therapies for the treatment of autism and other developmental disabilities.

Type of Impact: Expenditure increase: State General Fund, local government funds.

Agencies Affected: Department of the Treasury, Division of Pensions and Benefits; local government entities.

Office of Legislative Services Estimate

<table>
<thead>
<tr>
<th>Fiscal Impact</th>
<th>FY 2010</th>
<th>FY 2011</th>
<th>FY 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Cost</td>
<td>Indeterminate but significant, annually - See comments below.</td>
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<tr>
<td>Local Cost</td>
<td>Indeterminate but significant, annually - See comments below.</td>
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</tbody>
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- The Office of Legislative Services (OLS) estimates an indeterminate but significant aggregate annual cost increase for State and local governments as a result of this bill.

- The OLS notes that total State and local government costs through participation in the State Health Benefits Program (SHBP) and the School Employees Health Benefits Program (SEHBP) could approach $42.9 million (State $20 million and local $22.9 million) in FY 2010 assuming a January 1, 2010 effective date, reflecting half-year costs, and $85.8 million (State $40 million and local $45.8 million) in FY 2011, reflecting full-year costs. This assumes an autism prevalence rate of 1 in 94, in accordance with statistics from the federal Centers for Disease Control and Prevention, resulting in a potential population of 2,384 out of 224,992 children covered under the SHBP/SEHBP who could be diagnosed with autism, and further assumes that all eligible, covered individuals receive the maximum provided benefit immediately upon enactment of the legislation.

- The OLS further notes that not all eligible, covered individuals are likely to receive the maximum benefit provided. However, there is likely to be an increase over time in the consumption of benefits within the eligible population.
The bill’s principle cost factor is a beginning maximum annual benefit of $36,000 for persons up to 21 years of age, with a primary diagnosis of autism for expenses incurred for medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs. This limit is to be adjusted annually beginning January 1, 2012 by an inflation adjustment in accordance with a specified formula.

This fiscal estimate reflects potential costs associated with the SHBP/SEHBP only. Thus, the costs to local governments that contract with a commercial health care benefit provider, for example, are not reflected in this fiscal note. The OLS is not able to estimate the number of local government agencies that contract with a commercial health care benefit provider and the cumulative amount of premiums paid by local governments due to a lack of data.

Although data are not available to permit quantification of the savings to be realized from the benefits provided by this bill, savings may be realized by the Department of Health and Senior Services’ Early Intervention Program, because the costs of the program will be shifted to health insurers.

This bill requires government and private sector health insurers to provide health care benefits coverage for expenses incurred for certain treatments when prescribed as medically necessary by the covered person’s physician upon diagnosis of autism and other developmental disabilities including, applied behavioral analysis and occupational, physical, and speech therapy.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 2238 (1R) of 2009 requires health insurers to provide health benefits coverage for expenses incurred for certain treatments when prescribed as medically necessary by the covered person’s physician upon diagnosis of autism or other developmental disabilities. When the covered person’s diagnosis is autism or other developmental disability, the covered treatments are to include medically necessary occupational, physical, and speech therapy, as prescribed through a treatment plan; and coverage of these therapies is not to be denied on the basis that the treatment is not restorative. When the covered person is under 21 years of age and the covered person’s diagnosis is autism, the covered treatments, up to a maximum annual benefit of $36,000, are to include medically necessary behavioral interventions based on the principles of applied behavioral analysis and related structural behavioral programs, as prescribed and specified. The benefits for behavioral interventions are to be provided to the same extent as for any other medical condition, may not be subject to limits on the number of visits, and may not be denied on the basis that the treatment is not restorative. This bill will take affect on the 180th day after enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.
The OLS estimates an indeterminate but significant increase in State and local government health insurance costs as a result of this bill. State and local governments participating in the State Health Benefits Program and the School Employees Health Benefits Program could experience cost increases approaching in total $42.9 million in FY 2010 (State $20 million and local $22.9 million), reflecting half-year costs, and $85.8 million (State $40 million and local $45.8 million) in FY 2011, reflecting full-year costs. Costs in FY 2012 and thereafter may be higher due to an annual adjustment to the maximum benefit amount for inflation, as specified. This potential cost impact represents an assumption that all eligible, covered individuals receive the maximum provided benefit immediately upon enactment of the legislation, given:

- An assumed prevalence rate of 10.6 per 1,000 (1 in 94) covered children with autism;
- A maximum annual benefit of $36,000 for children under 21 years of age.

According to the Division of Pensions and Benefits, there are 224,920 children covered by the SHBP/SEHBP. Applying the prevalence rate of 1 in 94 to this population results in an estimated population of 2,384 children under 21 years of age who would receive the benefit provided by the bill. It should be noted that this OLS analysis focuses on the mandate in the bill for coverage of “behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs.” It should be further noted that not all eligible, covered individuals are likely to receive the maximum benefit, as indicated below. However, it is possible that over time the consumption of benefits within the eligible population will increase, and costs will likewise increase.

These assumptions are based on findings in the February 2007 report submitted to the New Jersey Mandated Health Benefits Advisory Commission regarding a review and evaluation of substantially similar legislation (Assembly Bill No. 999 of 2006) that mandated physical, speech, and occupational therapy, and behavioral interventions based on the principles of applied behavioral analysis and related structured behavioral programs. In summary, the evaluation reported that: (1) the prevalence rate for the five diagnoses listed in that bill in New Jersey is currently 1 in 94, based on federal Centers for Disease Control and Prevention reports; and (2) the average annual cost per person is $50,787 for children under five years of age and $33,858 for children between five and nine years of age. The commission reported that, pursuant to statutorily mandated coverage for “biologically-based mental illness” (which includes autism), physical, speech, and occupational therapies are already covered. However, applied behavioral analysis is typically not a covered benefit under health care insurance. Therefore, the commission’s review and evaluation focused on the mandate for coverage of applied behavioral analysis. The commission’s evaluation did not calculate the cost of the bill to the SHBP.

The consultant to the commission found that estimates vary on the cost of applied behavioral analysis treatments and the use after childhood. Treatment is most successful when started as early as possible after diagnosis and when continued for at least three to five years. An analysis of the autism law in Minnesota and estimates of the recommended hours per week of therapy revealed that applied behavioral analysis treatment would be $50,787 per year for children under the age of five who are receiving 30 hours a week of therapy and $33,858 for children over the age of five. Therapy is estimated to take 20 to 40 hours per week with a minimum level of 25 hours per week for 52 weeks for three to five years. The OLS notes that the average annual benefit for autism spectrum disorder in Minnesota and South Carolina is $50,000. In addition, in Arizona, the average annual benefit for children under the age of five is $50,000 and for children between five and nine years of age is $25,000. In 2008, Pennsylvania passed legislation to require insurance coverage up to $36,000 per year per person for autism spectrum disorder. The State of Washington has introduced legislation to require insurance coverage up to $50,000 per
year per person for autism spectrum disorder. Because therapy is most successful, for younger children under the age of nine and particularly under the age of five, it may be possible that the maximum exposure to the SHBP/SEHBP could be less because of a higher utilization rate by children under nine years of age and a lower utilization rate by children over nine years of age.

The OLS notes that it may be reasonable to assume that long term societal benefits are generated from providing the treatment mandated by the bill because there is a higher probability that children who receive treatment will be able to integrate into society and thereby reduce future social and economic costs. While there may be societal benefits over time, the costs of this bill would be incurred by the SHBP/SEHBP and other insurers. Although data are not available to assess the potential extent of the savings to be realized from the benefits provided by this bill, savings may be realized by the Department of Health and Senior Services’ Early Intervention Program, by school districts in special education if early treatment is successful, and by the State and federal government in the Medicaid program. While costs to the SHBP/SEHBP may taper off when children reach school age and are able to receive services through their schools under federally mandated programs, in the long run, the burden of the costs will rest upon the health care providers where the demand for the intensity of the services (preschool age zero to five years of age) provides the greatest benefit.

This estimate reflects potential additional costs associated with the SHBP/SEHBP only. Thus, the additional cost to local governments that contract with commercial health benefit providers is not reflected in this estimate. An estimate of the impact on local governments that contract with commercial health benefit providers cannot be made because information on these private carrier plans and the amount of premiums paid is not available.