ASSEMBLY, No. 800

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman FARRAGHER and Assemblyman GARRETT

AN ACT establishing the Mandated Health Benefits Advisory Commission and supplementing Title 17B of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in this act:

"Commission" means the Mandated Health Benefits Advisory Commission established pursuant to section 2 of this act.

"Health insurance" means a policy, contract or other agreement pursuant to which an insurer provides benefits or coverage for health care services.

"Insurer" means an insurer doing the business of health insurance, as defined in N.J.S.17B:17-4, and operating pursuant to Title 17B of the New Jersey Statutes; a health maintenance organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.); a health service corporation operating pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.); a hospital service corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.); or a medical service corporation operating pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.).

"Mandated health benefit" or "mandate" means: a benefit or coverage which is required by law to be offered or provided as the case may be, by an insurer including: coverage for specific health care services, treatments or practices; direct reimbursement to specific health care providers; or the offering of specific health care services, treatments or practices.

2. There is established the Mandated Health Benefits Advisory Commission to study the social, financial, and medical impact of current and proposed mandated health benefits. The commission shall review the issues concerning mandated health benefits as set forth in this act.

3. The commission shall consist of 11 members as follows:

a. The President of the Senate shall appoint five public members: a medical educator from the University of Medicine and Dentistry of New Jersey whose major field of expertise is the study and evaluation of the cost of health care and health insurance; a representative of a commercial health insurance company; a representative of the New Jersey Hospital Association; a representative of the American Federation of Labor/Congress of Industrial Organizations; and a representative of the New Jersey Business and Industry Association, no more than four of whom shall be from the same political party;

b. The Speaker of the General Assembly shall appoint four public members: a representative of a health consumer organization; a representative of the general public; a representative of a health services corporation; and a representative of the New Jersey Chamber of Commerce, no more than two of whom shall be from the same political party; and

c. The Commissioner of Health and the Commissioner of Insurance, or their designees, who shall serve as ex officio members during their terms of office.

4. The initial terms of office of the public members shall be as follows:

a. Two members appointed by the President of the Senate and two members appointed by the Speaker of the General Assembly shall serve three year terms.

b. Three members appointed by the President of the Senate and two members appointed by the Speaker of the General Assembly shall serve four year terms.

Members appointed thereafter shall serve four year terms and any vacancy shall be filled by appointment for the unexpired term only. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

5. a. The commission shall organize and hold its first meeting within 90 days after the appointment of its members and shall elect a chairman and a vice chairman from among its members. The commission may appoint a secretary, who need not be a member of the commission.

b. The members of the commission shall serve without compensation but may be allowed their actual and necessary expenses incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to the commission for this purpose.

c. The commission shall be entitled to call upon the services of any State, county or municipal department, board, commission or agency, as it may require and as may be available to it for these purposes, and to incur such traveling and other miscellaneous expenses as it may

deem necessary for the proper execution of its duties and as may be within the limit of funds appropriated or otherwise made available to it for these purposes.

d. The commission shall meet regularly and at a minimum, four times per year. Special meetings may be called by the chairman of the commission.

6. It shall be the duty of the commission to review any bill introduced in either House of the Legislature which would require an insurer to offer or provide a mandated health benefit, as provided in this section.

a. Whenever a bill containing a mandated health benefit is proposed, the standing reference committee to which the bill or resolution has been referred in the House in which it was introduced may request that the commission prepare a written report that assesses the social and financial effects and the medical efficacy of the proposed mandated health benefit.

b. Not later than the 90th day after the request for review is received, the commission shall complete its review and provide its written report to the chairman of the standing reference committee to which the bill has been referred. If the commission requests an extension prior to the 90th day after the date of the request for review, the chairman of the standing reference committee to which the bill had been referred may grant an extension for the commission to complete its review of the bill. That standing reference committee shall not consider or vote upon the bill until either the commission completes its review and provides its comments and recommendations in writing to the chairman, or the 90th day after the date the request for that review was received, or the designated day in the case of an extension.

c. No bill requiring an insurer to offer or provide a mandated health benefit shall be reported by the standing reference committee to which it has been referred unless it is accompanied by the written report of the commission.

d. Notwithstanding the provisions of subsections a., b. and c. of this section to the contrary, if the presiding officer of the House in which the bill was introduced determines that the bill is an urgent matter, he shall so notify in writing the chairman of the standing reference committee to which the bill may have been referred and the commission, and the House or committee may consider and vote upon the bill as soon as practicable.

e. The commission may amend or revise its report with respect to any bill which is amended by either House after having been reported by the standing reference committee to which it was referred in the

House in which it was introduced, at the request of a sponsor of the bill or any member of that standing reference committee.

7. The commission's study shall include, at a minimum and to the extent that information is available, the following:

a. The social impact of mandating the health benefit which shall include:

(1) The extent to which the treatment or service is utilized by a significant portion of the population;

(2) The extent to which the treatment or service is available to the population;

(3) The extent to which insurance coverage for this treatment or service is already available;

(4) If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;

(5) If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;

(6) The level of public demand and the level of demand from health care providers for the treatment or service;

(7) The level of public demand and the level of demand from the health care providers for insurance coverage of the treatment or service;

(8) The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts;

(9) The likelihood of achieving the objectives of meeting a consumer need as evidenced by the experience of other states;

(10) The relevant findings of the State Health Planning Board relating to the social impact of the mandated health benefit;

(11) The alternatives to meeting the identified need;

(12) Whether the health benefit is a medical or broader social need and whether it is consistent with the role of health insurance;

(13) The impact of any social stigma attached to the health benefit in the market;

(14) The impact of this health benefit on the availability of other benefits currently being offered; and

(15) The impact of the health benefit as it relates to employers shifting to self-insured plans.

b. The financial impact of mandating the health benefit which shall include:

(1) The extent to which the proposed insurance coverage would increase or decrease the cost of the treatment or service over the next five years;

(2) The extent to which the proposed coverage might increase the appropriate or inappropriate use of the treatment or service over the

next five years;

(3) The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service;

(4) The methods which will be instituted to manage the utilization and costs of the proposed mandate;

(5) The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years;

(6) The extent to which insurance coverage of the health care service or provider may be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders;

(7) The impact of indirect costs, which are costs other than premiums and administrative costs, on the question of the costs and benefits of coverage;

(8) The impact of this coverage on the total cost of health care; and

(9) The effects on the cost of health care to employers and employees, including the financial impact on small employers, medium-sized employers and large employers.

c. The medical efficacy of mandating the health benefit which shall include:

(1) The contribution of the health benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service; and

(2) If the legislation seeks to mandate coverage of an additional class of providers: (A) the results of any professionally acceptable research demonstrating the medical results achieved by the additional class of providers relative to those already covered; and (B) the methods of the appropriate professional organizations that assure clinical proficiency.

d. The effects of balancing the social, economic and medical efficacy considerations which shall include:

(1) The extent to which the need for coverage outweighs the costs of mandating the health benefit; and

(2) The extent to which the problem of coverage may be solved by mandating the availability of the coverage as an option under health insurance.

e. An analysis of information collected from various sources, including but not limited to, a State data collection system, the Department of Health, the Department of Insurance, health planning organizations, proponents of the new mandate, and other appropriate data sources.

8. The commission shall assess mandated health benefits existing in law as of the effective date of this act and shall report its findings and recommendations to the Legislature no later than one year from the date of the first meeting of the commission. The assessment shall include information relative to the same issues as for an assessment of proposed mandates pursuant to section 7 of this act, except that the data to be included shall be existing data on the actual effects of the mandate, rather than predictions of likely effects of the mandate. The report for each mandated health benefit shall include an analysis of the social impact, financial impact and medical efficacy of each mandated benefit relative to all other mandated health benefits and a recommendation as to the relative desirability of the mandate as compared to the other mandates.

9. In the course of studying and evaluating proposed and existing mandated health benefits the commission shall:

a. Develop criteria for a system and program of data collection for use by the Department of Health and the Department of Insurance, to assess the impact of mandated health benefits, including cost to employers and insurers, impact of treatment, cost savings in the health care system, number of providers and other data as may be appropriate; and

b. Review and comment to any State department, board, bureau, commission or agency, with respect to any order or regulations proposed or implemented thereby which affect mandated health benefits.

10. This act shall take effect immediately.

STATEMENT

This bill establishes the Mandated Health Benefits Advisory Commission as a permanent, independent body to review any bill introduced in either House of the Legislature which would require an insurer to provide or offer a health benefit or coverage for certain benefits. The commission would study the social, financial and medical impact of both current and proposed mandated health benefits. Mandated health benefits are defined in the bill as any mandated coverage for or offering of specific services, treatments or practices, and any mandated reimbursement to specific health care providers.

The commission would be comprised of members of the public, including a medical educator from the University of Medicine and Dentistry of New Jersey and representatives of the commercial health insurance industry, the New Jersey Hospital Association, the business community, health consumer organizations, health services

corporations and labor organizations. The Commissioner of Health and the Commissioner of Insurance would serve as ex officio members.

Whenever a bill containing a mandated health benefit is proposed, the standing reference committee to which the bill has been referred, may request that the commission prepare a written report that assesses the social and financial effects and the medical efficacy of the proposed mandate. Not later than the 90th day after the request for review is received, the commission would issue its written report to the chairman of the standing reference committee to which the bill was referred. If necessary, the chairman of the standing reference committee may grant an extension for the committee to complete its review.

The bill further provides that no bill requiring an insurer to offer or provide a mandated health benefit shall be reported by the standing reference committee to which it has been referred unless it is accompanied by the written report of the commission. However, if the presiding officer of the House in which the bill was introduced determines that the bill is an urgent matter, he may so notify the commission and the chairman of the standing reference committee, and the House or committee may consider and vote upon the bill as soon as practicable.

In the course of studying and evaluating mandated health benefits, the commission shall have the responsibility to develop criteria for a system and program of data collection for use by the Department of Health and the Department of Insurance. Both departments would utilize this data to assess the impact of mandated health benefits, which would include an analysis of the cost to employers and insurers, the impact of treatment, and the cost savings to the health care system. The commission would also review and provide comments with respect to any regulations which would affect mandated health benefits.

Establishes the Mandated Health Benefits Advisory Commission.