



Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## ADOPTEDS' HEALTH INSURANCE

Senate Bills 217 with House floor  
amendments

Senate Bill 219 as passed by the  
Senate  
First Analysis (9-13-94)

Sponsor: Sen. Robert Geake  
Senate Committee: Family Law, Mental  
Health, and Corrections  
House Committee: Insurance

### ***THE APPARENT PROBLEM:***

In testimony before the House Insurance Committee in previous years, parents of adopted children have identified (at least) two problems they face with obtaining health insurance coverage.

(1) Sometimes when a child is adopted by a family, he or she does not come under the family's coverage until the adoption is finalized. Yet adoptions are routinely not final until one year after the child is first placed in the home. While many children being adopted are covered by Medicaid, the health care program for low-income people, some are not, and some families think it is important that a new child in their home become part of the family in all senses, including being treated by the same health care providers or under the same kind of health insurance coverage. (Also, there are areas of the state where Medicaid-participating providers are hard, or impossible, to find.) Health insurers are required by law to provide coverage immediately to newborns (if there is family coverage), and some people believe that adopted children, many of whom are infants, should also be covered immediately when they join the family.

(2) Some insurance companies "medically underwrite" adopted children, which means they can choose whether or not to provide coverage to them or restrict coverage based on the child's health history or health status. This means some families cannot get their adopted children covered under the family policy. The Insurance Code is understood to prohibit the underwriting of newborns, and advocates for adopted children argue that adoptees should be extended this protection as well on the

grounds that adopted children entering a home for the first time are analogous to newborns.

A series of bills intended to improve the state's adoption laws have been enacted during the current legislative session, and some people see legislation addressing this issue of health coverage for adopted children as part of the overall package of improvements.

### ***THE CONTENT OF THE BILLS:***

Senate Bill 217 would amend the Insurance Code (MCL 500.3406f) to specify that a group or individual health plan offering coverage for dependent children of participants or beneficiaries must provide benefits to dependent children placed for adoption under the same terms and conditions as apply to natural dependent children, irrespective of whether the adoption had become final. A plan could not restrict coverage of any dependent child adopted or placed for adoption solely on the basis of a preexisting condition of the child at the time the child would otherwise have become eligible for coverage, if the adoption or placement occurred while the plan participant or beneficiary or the contract subscriber was eligible for coverage under the plan or contract.

However, the requirement would not apply to individual health plans if the child placed for adoption or adopted was eligible for services for crippled children as provided in Part 58 of the Public Health Code.

Senate Bill 219 would amend the Public Health Code (333.21054u) to apply the same requirement

Senate Bills 217 and 219 (9-13-94)

to group contracts of health maintenance organizations (HMOs). [The bill at this point has not been amended to contain provisions parallel to those in Senate Bill 217.]

The term "child" in each bill would refer to an individual who had not attained 18 years of age as of the date of the adoption or placement for adoption.

### **BACKGROUND INFORMATION:**

The House has passed three bills dealing with this subject that would require both group and individual health insurance to provide coverage for adopted children either from the date of placement for adoption or the date of the adoption, with the insured to decide when coverage would begin. Under those bills, House Bills 4309-4311, coverage for an adopted child or a child placed for adoption (no matter what the child's age, provided he or she was under 18) would be the same as if the child were a newly born biological child of the insured. Similar bills have passed the House in the previous two legislative sessions as well. (See the analysis of House Bills 4309-4311 dated 3-17-93.) The bills on this issue as passed by the Senate applied only to group policies and allowed individual policies to exclude adopted children on a case-by-case basis.

### **FISCAL IMPLICATIONS:**

In the past, the Department of Social Services has indicated that there could be some very minimal savings to the state if some children who otherwise would have claimed public insurance benefits were covered under family insurance policies.

### **ARGUMENTS:**

#### **For:**

Senate Bill 217 as amended on the House floor would require group and individual commercial health insurance policies that cover dependent children to cover adopted children on the same terms and conditions as apply to the natural, dependent children of the family covered and regardless of whether the adoption had become final. However, an individual policy would not have to cover a child eligible for the so-called crippled children's program. (Senate Bill 219, which applies to HMOs, has not yet been amended and applies only to group contracts.) Coverage sometimes now does not begin until the adoption is finalized,

perhaps a year after placement. For some families this is a hardship. They want the new child to be treated as a full family member in every way possible and yet cannot obtain the same insurance coverage for the child. While Medicaid is available to many children being adopted, Medicaid providers are not available everywhere, and some families would prefer that the new child be able to visit the same health care providers and under the same terms as the rest of the family. Current insurance practices discriminate against adopted children and send them the message that they are less deserving and different from other children in a family. The floor amendment recognizes the potential high cost of some medically fragile children and provides an exemption for coverage for children eligible for the crippled children program.

#### **Response:**

Legislation already passed by the House would apply to all adopted children (without exception) under both individual and group policies and says adopted children should be treated in the same manner as newborns are treated. That would prevent any adopted child from being denied coverage under individual policies sold by commercial insurers based on their health status. The Senate-passed bills as reported from committee would allow insurance companies selling individual policies to continue to medically underwrite adopted children. As amended on the floor, Senate Bill 217 would require individual policies to cover adopted children with an exception that would allow insurers to exclude children eligible for the state crippled children program. One argument for the House-passed version is that companies cannot now medically underwrite newborn children at all. If the legislature wants to aggressively promote adoption, the House-passed approach is preferable.

#### **Reply:**

Representatives of commercial health insurance companies that sell individual (non-group) policies complain that preventing them from medically underwriting adopted children and forcing them to cover children regardless of their medical problems would drive up costs for all of their customers because the additional costs associated with higher-cost children would have to be spread over a company's individual policy customers, which is a relatively small base. Higher premiums will mean some people will not be able to afford health insurance at all, particularly since many purchasers of individual policyholders have low or moderate incomes.

The House-passed bills, moreover, do not provide equal treatment for adopted children, company spokespersons say, but preferential treatment. Some companies now medically underwrite everyone else on non-group policies except for newborns, who the law says cannot be medically underwritten. (It should also be noted that Blue Cross-Blue Shield cannot medically underwrite.) If a child other than a newborn comes into a home through some mechanism other than adoption (such as guardianship or a change in custodial parent), he or she would not get this favorable treatment but would be subject to underwriting.

***POSITIONS:***

There are no positions at present.