Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 707 through 712 (as reported without amendment)
Sponsor: Senator John J.H. Schwarz, M.D. (S.B. 707 & 711)
Senator Dave Honigman (S.B. 708 & 712)
Senator Dale L. Shugars (S.B. 709 & 710)
Committee: Health Policy and Senior Citizens

Date Completed: 10-11-95

RATIONALE

The Federal Omnibus Budget Reconciliation Act (OBRA) of 1993 contains various child support legislation requirements that states must meet as a condition of receiving Federal funding. Section 13623 of the OBRA includes a number of medical child support mandates that are required to be placed in state law. These requirements focus on those instances in which a court issues a child support order to a parent to provide health care coverage for a child, by placing specific requirements on insurers to provide coverage and employers to permit parents to enroll for coverage, when a parent is eligible for family health care insurance. According to the Department of Social Services (DSS), the Federal Department of Health and Human Services, Health Care Financing Administration, has placed the DSS on a national noncompliance register for failure to enact the OBRA requirements. It has been suggested that the State adopt legislation to conform to the Federal law.

CONTENT

The bills would amend various laws and create a new law to do the following:

- **-- Require the local Friend of the Court offices to initiate enforcement, and take other actions, to force the compliance of a parent who failed to obtain or maintain health care coverage for a child as ordered by the court.**
- **-- Provide for the enrollment of a child in a parent's health care coverage under certain circumstances if the parent were ordered by a court to provide coverage.**
- **-- Require Friend of the Court offices to notify the DSS if the offices identified situations in which health care coverage had been obtained or maintained for a child who was receiving public or medical assistance.**
- **-- Require an insurer to allow a parent to enroll a child, or the Friend of the Court to enroll the child, under the parent's coverage, if the parent were required by a court or administrative order to provide health care coverage and the parent were eligible for dependent coverage.**
- **-- Assign to the DSS an individual's rights to insurance payments, to the extent that payment was made by the DSS's medical assistance program.**
- **-- Prohibit an insurer from considering an individual's eligibility for Medicaid when considering eligibility for coverage.**
- **-- Prohibit an insurer that offered dependent coverage from denying enrollment to an insured's child on the ground that the child was born out of wedlock, was not claimed as a dependent on the insured's Federal income tax return, or did not reside with the insured or in the insurer's service area.**

Senate Bill 707 would amend the Support and Visitation Enforcement Act and Senate Bill 711 would amend the Friend of the Court Act to provide for the enforcement of court-ordered health care coverage for children. Senate Bill 708 would amend the chapter of the Insurance Code that governs disability insurers; Senate Bill 709 would amend the Nonprofit Health Care Corporation Reform Act and apply to a health care corporation (Blue Cross and Blue Shield of Michigan); Senate Bill 710 would amend the Public Health Code and apply to health maintenance organizations; and Senate Bill 712 would create

the "Group Health Plan Act" and apply to group health plans as defined in the Federal Employee Retirement Income Security Act. Senate Bills 708-710 and 712 would require access to health care coverage for children under certain conditions. Following is a detailed description of the bills.

Senate Bills 707 and 711

Senate Bill 707 provides that if a parent failed to obtain or maintain health care coverage for the parent's child as ordered by the court, the Office of the Friend of the Court (FOC) would have to do either of the following:

-- Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that was available at a reasonable cost.

-- Send notice of noncompliance to the parent, stating that the Office would notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent, within 14 days after the mailing of the notice, either submitted written proof to the FOC of the child's enrollment in a coverage plan, or requested a hearing to determine the availability or reasonable cost of the coverage.

If a parent were eligible for health care coverage through an employer doing business in the State, the employer would have to notify its insurer or plan administrator and take other action as required to enroll that parent's child in its health care coverage plan or plans, without regard to any enrollment period restrictions, when all of the following existed:

-- The parent was required by a court or administrative order to provide health care coverage.

-- The child was eligible for coverage under the plan. A child could not be denied enrollment or coverage on the ground that he or she was born out of wedlock, was not claimed as a dependent on the parent's Federal income tax return, did not reside with the parent or in the insurer's service area, or was eligible for or receiving medical assistance.

-- The employee applied for coverage for the child or, if the employee failed to apply, the Friend of the Court or child's other parent through the FOC applied for coverage for the child.

If coverage were available through the parent's employer, the employer would have to withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage not to exceed the amounts allowed under the Support and Visitation Enforcement Act, and pay that amount to the insurer or plan administrator. An employer could not disenroll or eliminate health care coverage of a child eligible and enrolled for coverage unless the employer was provided with satisfactory written evidence that the court or administrative order requiring coverage was no longer in effect; the child was or would be enrolled in comparable coverage that took effect no later than the effective date of the disenrollment from the existing plan; or the employer had eliminated dependent health care coverage for all of its employees or members.

The Office of the Friend of the Court would have to notify the DSS if the Office identified health care coverage that had been obtained or was being maintained by a parent for a child who was a recipient of public assistance or medical assistance. The notice would have to include available information on the name and address of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; the effective date of the coverage; the name and birth date of the individual for whose benefit the coverage was maintained; and the name and social security number of the policyholder.

An order for dependent health care coverage entered under the bill would have to include the information required in a qualified order as specified in the Federal Employee Retirement Income Security Act, if the health care coverage plan of the individual who was responsible for providing a child with coverage were subject to that Act. (Under the Federal law a qualified medical child support order must specify the name and address of the parent and each child covered by an order; a reasonable description of the type of coverage to be provided to each child; the time period to which the order applies; and each health group plan to which it applies.) An order for dependent health care coverage served on an employer would have to direct the employer to withhold from the employee's income the employee's share, if any, of premiums for coverage and pay that amount to the insurer or plan administrator. The order also would have to direct that the amount withheld for support, fees, and health care premiums not exceed the amount allowed under the Federal Consumer Credit Protection Act. An order for coverage under the bill could be combined with an order of income

withholding. (Under the Support and Visitation Enforcement Act, the circuit court may enter an order of income withholding providing for the withholding of a person's income to enforce a support order.)

Currently, under the Act, if there is more than one order to withhold income for support, the employer must comply with all the orders to the extent that the total amount withheld does not exceed limits established in the Federal Consumer Credit Protection Act. The bill provides also that if the total amounts allocated to current and past due support did not exceed the amounts available for withholding, the employer would have to allocate the remaining income to the parent's portion of health care coverage premiums attributable to coverage of the children specified in the order, if the remaining income were sufficient to cover the cost of the premium. This provision would not require an employer to pay the parent's portion of health care premiums.

Under Senate Bill 711, if a parent failed to obtain or maintain health care coverage for a child as ordered by the court, the Friend of the Court would be required to initiate enforcement at the following times: within 60 days after the entry of a support order; upon written complaint from a party; upon written complaint from the DSS if the child were a recipient of public assistance or medical assistance; and when a review was conducted as required under the Friend of the Court Act. (The Act prescribes the circumstances under which the Friend of the Court must review a child support order.)

Senate Bills 708, 709, 710, and 712

The bills would provide for the enrollment of a child in a parent's health care coverage under certain circumstances, if the parent were ordered by a court to provide coverage. (In this summary, group health plans, health maintenance organizations, and a health care corporation are included in references to an "insurer", and their subscribers are included in references to an "insured".)

Required Health Coverage

If a parent were required by a court or administrative order to provide health coverage for a child, the insurer were notified of the order, and the parent were eligible for dependent coverage, the insurer would have to do all of the following:

-- Permit the parent to enroll, under the dependent coverage, a child who was otherwise eligible for coverage without regard to any enrollment season restrictions.
-- If the parent were enrolled but failed to make application to obtain coverage for the child, enroll the child under dependent coverage upon application by the Friend of the Court, or by the child's other parent through the FOC.
-- Not eliminate the child's coverage unless premiums had not been paid as required by the policy or certificate, or the insurer was provided with satisfactory written evidence that the court or administrative order was no longer in effect, or the child was or would be enrolled in comparable health coverage through another insurer or self-funded plan that would take effect no later than the effective date of the cancellation of the existing coverage.

If a child had health coverage through an insurer of a noncustodial parent, the insurer would be required to provide the custodial parent with information necessary for the child to obtain benefits through that coverage; permit the custodial parent or, with the custodial parent's approval, the provider to submit a claim for coverage services without the noncustodial parent's approval; and make payment on claims submitted for covered services directly to the custodial parent or medical provider.

Medicaid Eligibility

An insurer could not consider whether an individual was eligible for or had available medical assistance under Title 19 of the Social Security Act (which governs Medicaid) in this or another state when considering eligibility for coverage or making payments under its health plan for eligible insureds.

If an insurer had a legal liability to make payments, and payment for coverage services for health care items or services furnished to an individual had been made under the State's medical assistance program, the DSS would acquire the rights of the individual to payment by the insurer to the extent that payment was made by the DSS for those health care items or services. An insurer could not impose on the DSS requirements that were different from requirements that applied to an agent or assignee of any other covered insured.

An insurer that delivered, issued for delivery, or renewed in Michigan an expense-incurred hospital, medical, or surgical policy or certificate that offered dependent coverage would not be permitted to

deny enrollment to an insured's child on any of the following grounds:

-- The child was born out of wedlock.
-- The child was not claimed as a dependent on the insured's Federal income tax return.
-- The child did not reside with the insured or in the insurer's service area.

MCL 552.602 et al. (S.B. 707)
Proposed MCL 500.3406g-500.3406 (S.B. 708)
Proposed MCL 550.1419-550.1419b (S.B. 709)
Proposed MCL 333.21054v-333.21054x (S.B. 710)
MCL 552.509 & 552.511 (S.B. 711)

Legislative Analyst: G. Towne

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Federal OBRA of 1993 requires the states to adopt certain laws regarding medical coverage for the children of individuals who are subject to court support orders, or face the prospect of losing Federal funds. Reportedly, the OBRA requirements were adopted in response to a U.S. General Accounting Office (GAO) report, which stated that many states are not doing enough to see that children obtain private health insurance available to them under child support orders, particularly from the insurance coverage of noncustodial parents ("Medicaid: Ensuring that Noncustodial Parents Provide Health Insurance Can Save Cost", June 1992). The OBRA requirements then, in effect, shift some of the health care costs for children from Medicaid to available private insurance. The OBRA requirements place certain mandates on insurers and employers, but only in those instances in which a parent has been ordered by a court to provide coverage and the parent is eligible for dependent coverage. By conforming to the OBRA requirements, the bills would help to facilitate the enrollment of children in dependent care plans by: 1) providing for the enrollment of a child under a parent's coverage if ordered by the court; 2) requiring the local FOC to initiate enforcement to obtain the compliance of a parent who failed to get coverage for a child as ordered; 3) requiring an insurer to allow a parent to enroll a child, or the FOC to enroll the child, under the parent's coverage if the parent were eligible for dependent coverage; 4) requiring an employer, under certain circumstances, to facilitate the enrollment of a parent's child in its health care coverage plan, without regard to enrollment period restrictions; and 5) prohibiting an insurer that offered dependent coverage from denying enrollment on the basis that the child was born out of wedlock, did not reside with the insured, or was not claimed as dependent on the insured's Federal tax return.

FISCAL IMPACT

This series of bills is responsive to Section 13623 of the Omnibus Budget Reconciliation Act of 1993 which mandates that states have in effect laws relating to medical child support consistent with the provision of that Act.

As other State statutes already allow for medical support under child support orders, and as the Department of Social Services already engages in a wide variety of third-party recovery activities, it is unlikely that these bills would produce a measurable amount of additional General Fund/General Purpose savings to the State Medicaid program. It should be noted, however, that since these bills would facilitate the overall medical support coverage and enforcement process, one would expect some level of savings to accrue. As an example, the average annual Medicaid fee-for-service cost for a child between the ages of 1 and 14 is $720 in Wayne County. Each such child covered by private insurance will save the State about 44% of that amount or $317 General Fund/General Purpose annually.

In addition, Senate Bills 707 and 711 would provide for an automatic mechanism whereby all Friend of the Court offices would have to follow the same procedures regarding an order for dependent coverage. Whereas currently most enforcement by the Friend of the Court is complaint driven, these bills would require the Office to enforce an order on the parent or employer without waiting for a complaint. This in effect would result in more paperwork and use of resources by the Friend of the Court. As most of the proposed procedures are currently executed in some manner, the fiscal impact on the FOC would be minimal.

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