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MEDICAL CHILD SUPPORT

House Bill 4161 (Substitute H-4)
Sponsor: Rep. Gregory E. Pitoniak
1st Committee: Public Health
2nd Committee: Insurance

House Bill 4167 (Substitute H-4)
Sponsor: Rep. Mary C. Brown
Committee: Insurance

House Bill 4218 (Substitute H-3)
Sponsor: Rep. Jim McBryde
Committee: Insurance

First Analysis (5-4-94)

THE APPARENT PROBLEM:

The federal Omnibus Budget Reconciliation Act (OBRA) of 1993 requires the states to adopt a number of amendments to their insurance laws regarding medical coverage for children, and in particular coverage available to children from noncustodial parents, or face the prospect of losing federal Medicaid match funding. The federal legislation grew out of studies indicating that many states (including Michigan) were not doing enough to see that children are obtaining private health insurance coverage available to them under child support orders. Effective enforcement in this area, according to one U.S. General Accounting Office (GAO) study, aims both at promoting family responsibility and saving the government money at the federal and state levels. The GAO estimated that \$122 million in medical expenditures could be saved annually if noncustodial parents were to provide health insurance available to them through their employment. (This would mean a shifting of health costs from Medicaid to available private insurance.) The proposed legislation aims, among other things, at removing obstacles to children being covered under the health insurance of noncustodial parents and at ensuring that use is made of such coverage when it is available.

THE CONTENT OF THE BILLS:

The bills would 1) import into Michigan statutes requirements from the federal Omnibus Budget Reconciliation Act (OBRA) of 1993 regarding medical child support and the coordination of

private insurance benefits with Medicaid; and 2) require insurers and similar entities to offer to provide coverage to the children of insureds through the year in which they have their 25th birthday if they are unmarried college students.

House Bill 4161 would amend the Public Health Code (333.21054u et al.) and apply to health maintenance organizations (HMOs). House Bill 4167 would amend the Nonprofit Health Care Corporation Act (MCL 550.1418 et al.) and apply to Blue Cross and Blue Shield of Michigan. House Bill 4218 would amend the Insurance Code and apply to commercial health insurance companies. Each bill contains the following provisions.

Prohibited as grounds for denial of coverage

* An insurer would be prohibited from denying coverage in a policy that offers dependent coverage to an insured's child on the grounds that the child 1) was born out of wedlock; 2) was not claimed as a dependent on the insured's federal income tax return; or 3) did not reside with the insured or in the insured's service area.

Coverage of children under a court order

* If a parent was required by a court or administrative order to provide health coverage to a child and the parent was eligible for dependent coverage, the insurer would be required to permit the parent or legal custodian to enroll a child

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eligible for coverage without regard to any enrollment season restrictions.

* If a parent was enrolled but failed to apply for coverage for a child, the insurer would be required to enroll the child under dependent coverage upon application by the child's other parent or legal custodian or by the friend of the court under the Support and Visitation Enforcement Act.

* The insurer would be required to notify the child's other parent or legal custodian and the friend of the court of the effective date of the child's coverage, the name of the insurer, the name of the policyholder and certificate holder, and the policy number.

* An insurer would be prohibited from eliminating the child's health coverage (provided necessary premiums were paid) unless the insurer was provided with satisfactory written evidence that either 1) the court order or administrative order was no longer in effect or 2) that the child was or will be enrolled in comparable health coverage through another insurer, health care corporation, health maintenance organization, or self-funded health plan that would take effect not later than the effective date of the cancellation of existing coverage. An insurer would have to notify the friend of the court if health coverage was eliminated for any reason other than that an order was no longer in effect.

Noncustodial parent coverage

* If a child had health coverage through an insurer of a noncustodial parent, the insurer would be required to:

1) provide the custodial parent or legal custodian with information as may be necessary for the child to obtain benefits through that coverage;

2) permit the custodial parent or legal custodian or, with the custodial parent's or legal custodian's approval, the health care provider to submit claims for covered services without the noncustodial parent's approval; and

3) make payment on claims so submitted directly to the custodial parent, legal custodian, or health care provider.

Related medical support provisions

* Insurers would be required, if requested pursuant to the Friend of the Court Act, to provide information to the friend of the court about a policy's or certificate's various benefits and options available to a child, along with their costs.

* Insurers would be prohibited from considering whether an individual was eligible for 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 payments had been made by Medicaid for covered expenses for health care items or services furnished to an individual, the Department of Social Services would acquire the rights of the individual to payment by the insurer to the extent payment had been made by DSS for those items or services. An insurer could not impose requirements on the DSS different from requirements that applied to an agent or assignee of any other covered insured.

Offer of coverage for child up to age 25

* Insurers and similar entities would be required to offer to provide coverage to an insured's child until December 31 of the year in which the child becomes 25 years old regardless of whether the child is considered a dependent for federal tax purposes if the child is 1) a child by birth or adoption; 2) enrolled as a full-time student; and 3) unmarried.

FISCAL IMPLICATIONS:

The Department of Social Services says there would be savings of \$1,500 annually for each child covered by a parent's private insurance rather than by Medicaid. The department provides no estimate of overall savings. (4-28-94) The U.S. General Accounting Office (GAO) estimated in a June 1992 report that \$122 million could be saved nationwide by moving children from Medicaid to employer-provided insurance of noncustodial parents required to provide support for their children.

ARGUMENTS:

For:

Insurance specialists say the state must adopt these federally required amendments or face the loss of

Medicaid match funding. Generally speaking, the bills would transfer the cost of providing medical care for some children from Medicaid, a federal-state program for low-income people, to the employer-provided health insurance of noncustodial parents who have been ordered to provide such support for their children. The bills aim at enhancing current efforts at seeing that such medical child support is provided as intended. Recent federal legislation mandates that the state adopt certain kinds of legislation, including insurance-related legislation, related to child support enforcement and coordination of private health insurance with Medicaid.

For:

The bills also would require insurers to offer parents the opportunity to include in their health coverage unmarried children attending college through the age of 25. Supporters of this provision say many of the state's college students are not insured and that parents would willingly add them to family coverage if the option was made available to them. While such an option is sometimes available, the bills would require that it be offered. It should be noted that this is not a mandated coverage but a mandated offer, with the choice left to the purchaser.

Response:

It should be noted that the purchaser of health insurance is often the group policyholder and not the individual insured, so this choice may not always be in the appropriate hands.

Against:

It has been pointed out that the bills require health maintenance organizations to cover the children of noncustodial parents regardless of whether they live in the HMO's service area. This is impractical.

Response:

This problem has been widely noted, and other problems doubtless exist with the federal mandated legislation. However, it is understood that the federally required provisions must be adopted more or less as written, with practical difficulties and issues of interpretation to be worked out at a later date.

POSITIONS:

The Department of Social Services has indicated strong support for the bills. (4-28-94)