

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2322 - SB 2373

March 1, 2024

SUMMARY OF BILL: Requires a health benefit plan to include coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, psychophysiological testing and treatment, neurofeedback therapy, remediation, post-acute transition services, community reintegration services, including outpatient day treatment services, and other post-acute care treatment services required for and related to treatment of an acquired brain injury.

Prohibits a health benefit plan from including, in any annual or lifetime limitation on the number of days of acute care treatment covered under the plan, any post-acute care treatment covered under the plan. Prohibits a health benefits plan from limiting the number of days of covered post-acute care, or covered inpatient care, to the extent that the treatment or care is determined to be medically necessary as a result of and related to an acquired brain injury.

Requires a health benefit plan to include coverage for reasonable expenses related to periodic reevaluation of the care of an insured or enrollee who: has incurred an acquired brain injury, has become unresponsive to treatment, and becomes responsive to treatment at a later date.

Requires an issuer of a health benefit plan to respond to a person requesting utilization review or appealing for an extension of coverage based on an allegation of medical necessity within three business days after the date on which the person makes the request or submits the appeal.

Prohibits the issuer of a health benefit plan that contracts with or approves admission to a service provider from refusing to contract with or approve admission to the facility to provide services that are required by the legislation, within the scope of the facility's license, and under the scope of services provided under a nationally recognized accredited rehabilitation program, solely because a facility is licensed by this state as an inpatient rehabilitation facility.

Prohibits a health benefit plan from treating care provided in accordance with the legislation as custodial care solely because it is provided by an inpatient rehabilitation facility if the facility holds a Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation or another nationally recognized accreditation for a rehabilitation program for brain injury.

Authorizes the Commissioner of the Department of Commerce and Insurance (DCI) to require a licensed inpatient rehabilitation facility that provides covered post-acute care other than custodial care to an insured or enrollee with an acquired brain injury to hold a CARF accreditation or another nationally recognized accreditation for a rehabilitation program for brain injury.

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FISCAL IMPACT:

Increase State Expenditures – \$2,034,100/FY24-25 and Subsequent Years

Increase Federal Expenditures – \$703,300/FY24-25 and Subsequent Years

Increase Local Expenditures – \$279,400/FY24-25 and Subsequent Years*

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for procedures and treatments being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent.

Assumptions:

- The proposed legislation requires coverage of certain acute care and post-acute care treatment for acquired brain injury, with annual or lifetime limitations.
- The legislation also imposes a utilization review deadline of three business days for a health benefit plan to respond to utilization review requests or appeals for an extension of coverage for treatment related to acquired brain injury.
- As of February 2024, the Department of Commerce and Insurance (DCI) showed a total population of 555,103 individuals on qualified health plans (QHP).
- According to estimates from multiple QHP providers, the increase in costs per member per month as a result from the proposed legislation will be approximately \$0.19. This would result in an increase in state expenditures of \$1,265,635 ($\$0.19 \times 12 \times 555,103$) annually in order for DCI to defray the costs of this increase.
- Based on information provided by the Division of TennCare, the TennCare program expends an average of \$5,997,555 per year for treatment of enrollees with an acquired brain injury.
- It is estimated that the proposed legislation will result in a 10 percent increase in utilization of services related to acquired brain injury, creating an increase in expenditures of approximately \$599,756 ($\$5,997,555 \times 10\%$).
- In addition to increased utilization, the TennCare program will no longer have the ability to deny certain post-acute care and inpatient care related to acquired brain injuries.
- Based on the average amount of such services denied by the TennCare program, the additional increase in expenditures is estimated to be \$412,515 per year.
- The total increase in expenditures to the TennCare program as a result of the proposed legislation is estimate to be \$1,012,271 ($\$599,756 + \$412,515$) in FY24-25 and subsequent years.
- Medicaid expenditures receive matching funds at a rate of 64.928 percent federal to 35.072 percent state. Of this amount, \$355,024 ($\$1,012,271 \times 35.072\%$) will be in state funds and \$657,247 ($\$1,012,271 \times 64.928\%$) will be in federal funds in FY24-25 and subsequent years.

- The requirements of the legislation will also apply to treatment of acquired brain injuries under the CoverKids program.
- Based on information provided by the Division of TennCare, the CoverKids program expends an average of \$18,147 per year for treatment of enrollees with an acquired brain injury.
- A 10 percent increase in utilization of services related to acquired brain injury will result in an increase in expenditures of approximately \$1,815 ($\$18,147 \times 10\%$) in FY24-25 and subsequent years.
- CoverKids expenditures receive matching funds at a rate of 75.453 percent federal to 24.547 percent state. Of that amount, \$446 ($\$1,815 \times 24.547\%$) will be in state expenditures, and \$1,369 ($\$1,815 \times 75.453\%$) will be in federal expenditures.
- Based on information provided by the Division of Benefits Administration, changes to the coverage limits related to treatment of an acquired brain injury and medical necessity determinations will result in an estimated impact to the State Group Insurance Program (SGIP) of \$815,346 in FY24-25 and subsequent years.
- It is estimated that 48 percent of members are on the State Employee Plan, 43 percent are on the Local Education Plan and 9 percent are on the Local Government Plan.
- The state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of \$313,093 ($\$815,346 \times 48\% \times 80\%$).
- Some state plan members' insurance premiums are funded through federal dollars. It is estimated 14.27 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures of \$44,678 ($\$313,093 \times 14.27\%$).
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of \$144,622 [$(\$815,346 \times 43\% \times 75\% \times 45\%) + (\$815,346 \times 43\% \times 25\% \times 30\%)$].
- The mandatory increase in expenditures for the local government share of the Local Education Plan is estimated to be \$205,977 [$(\$815,346 \times 43\%) - \$144,622$].
- The state does not contribute to the Local Government Plan. It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be \$73,381 ($\$815,346 \times 9\%$).
- The recurring increase in state expenditures to the SGIP is estimated to be \$413,037 ($\$313,093 - \$44,678 + \$144,622$).
- The total increase in state expenditures is estimated to be \$2,034,142 ($\$1,265,635 + \$355,024 + \$446 + \$413,037$) in FY24-25 and subsequent years.
- The total increase in federal expenditures is estimated to \$703,294 ($\$657,247 + \$1,369 + \$44,678$) in FY24-25 and subsequent years.
- The total mandatory increase in local expenditures is estimated to be \$279,358 ($\$205,977 + \$73,381$) in FY24-25 and subsequent years.
- Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for procedures and treatments being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent.

IMPACT TO COMMERCE:

Increase Business Revenue – \$3,016,800/FY24-25 and Subsequent Years

**Increase Business Expenditures –
Less than \$3,016,800/FY24-25 and Subsequent Years**

Assumptions:

- Healthcare provider will experience an increase in business revenue of \$3,016,794 (\$2,034,142 + \$703,294 + \$279,35) in FY24-25 and subsequent years from treatment of traumatic brain injuries.
- The increase in business expenditures is estimated to be less than those amounts for companies to retain solvency.
- The proposed legislation will not increase the amount of healthcare professionals in the state; therefore, any impact to jobs in Tennessee is estimated to be not significant.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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