

Pension and Health Benefits Review Commission
Vote Results
September 21, 2012

S-481 (Thompson)

Requires insurers and State health care coverage programs to cover cost of HIV vaccine.

Motion: Recommend against enactment.

Discussion: This bill would mandate insurance coverage for a HIV vaccination. It is the SHBP policy to provide immunization coverage in the Program's managed care plans upon approval of the vaccination by the FDA. Currently, there is no approved vaccination for HIV, so the provisions of this bill are prospective. Health benefit consultants to the SHBP/SEHBP have indicated that approval of a vaccine is years away at this point.

The health benefit mandate imposed by this bill would usurp the authority of the SHBP and the SEHBP Plan Design Committees. These committees were created with the enactment of P.L. 2011, c.78 (Pension and Health Benefit Reform) and were provided with the responsibility for plan design.

S-719 (O'Toole)/A-1579 (Wisniewski)

Requires health insurance coverage by health insurers, SHBP and SEHBP for expenses incurred in connection with prophylactic mastectomies and other mastectomy-related procedures.

Motion: Recommend against enactment.

Discussion: Reconstructive breast surgery following a mastectomy is already a covered procedure in all plans in the SHBP/SEHBP. P.L. 1997, c.75 mandated coverage for reconstructive breast surgery following a mastectomy under the general insurance laws. The SHBP statutes were not impacted by this law. However, reconstructive breast surgery was covered by the SHBP even prior to this mandate because it was always deemed by the plan to be a medically necessary procedure. Prophylactic mastectomy, which is considered a preventive care procedure, is also covered under the NJ DIRECT plan and the HMO's participating in the SHBP/SEHBP.

A-904 (Schepisi)

Changes compensation trigger for reenrollment of PERS retiree from \$15,000 in aggregate to \$15,000 per public employer.

Motion: Recommend against enactment.

Discussion: Chapter 23, P.L. 1997 was enacted to provide some relief to PERS members who were somewhat disadvantaged by the return to public employment after retirement laws and allowed PERS retirees to earn up to \$10,000 annually with suspending their pension and re-enrolling in the plan. When this law was enacted, it was interpreted that

the \$10,000 threshold applied to each employer with whom the retiree was employed. This interpretation was codified under N.J.A.C. 17:2-2.3 (a) 7.

P.L. 2001, c.278 (Senate Bill #517) was enacted and increased the earnings threshold to \$15,000. S-517, however, was amended in the Assembly State Government Committee to include a provision that made the new salary threshold apply to the total salary earned by the PERS retiree from all employers.

The enactment of c.278 continued to provide the PERS retiree de minimus relief from the return to employment laws while avoiding significant negative public backlash by not creating the perception of “double-dipping” (i.e., receiving a public pension and a public salary simultaneously) which was historically precluded by original public pension laws. The enactment of this bill would generate an obvious trend toward a situation the legislature intended to avoid with the enactment of c.278.

A-1278 (Coughlin)

Requires health insurers and SHBP to provide certain mental health benefits for eating disorders under same terms and conditions as for other illnesses and diseases.

Motion: Recommend against enactment.

Discussion: The health benefit mandate imposed by this bill would increase plan costs and usurp the authority of the SHBP and the SEHBP Plan Design Committees. These committees were created with the enactment of P.L. 2011, c.78 (Pension and Health Benefit Reform) and were provided with the responsibility for plan design.

Currently, treatment for the symptoms associated with eating disorders is covered by the SHBP/SEHBP under the rules regarding coverage for non-biologically based mental illness. Although the SHBP statutes limit coverage for non-biologically mental illness to maximums of \$10,000 per calendar year and \$20,000 for the entire period of the person’s coverage under the plan (N.J.S.A. 52:14-17.29), these limits have been pre-empted as a result of the enactment of federal legislation. Biologically based mental illnesses were, at one time, also subject to these statutory limits. However, with the enactment P.L. 1999, c.441, biologically based mental illnesses are no longer subject to these limitations and are covered under the same terms and conditions as any other sickness under the SHBP/SEHBP.

The federal enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) generally required that health plans adopt mental health parity. However, self-funded, non-federal governmental plans like the SHBP’s plans were able to elect an exemption from certain HIPAA requirements, including mental health parity, on a year to year basis, provided that an annual election form is properly filed with the federal Centers for Medicare and Medicaid Services and annual notice of the exemption is provided to all plan participants. The SHBP has done so since HIPAA’s inception.

The Patient Protection and Affordable Care Act (ACA) was signed into law on March 23, 2010, and the related Health Care and Education Reconciliation Act of 2010, which modifies certain provisions of ACA, was signed into law on March 30, 2010. These laws preclude the State Health Benefits Commission from placing dollar limits on mental health coverage, but do allow for the day or visit limits. Visit limits continue to apply to the SHBP/SEHBP coverage for non-biologically-based mental illness as a result of the plan's annual election to opt-out of mental health parity.

A-2863 (McKeon)

Requires health insurers and State Health Benefits Commission to provide coverage for posttraumatic stress disorder under same conditions as other sickness.

Motion: Recommend against enactment.

Discussion: The health benefit mandate imposed by this bill would increase plan costs and usurp the authority of the SHBP and the SEHBP Plan Design Committees. These committees were created with the enactment of P.L. 2011, c.78 (Pension and Health Benefit Reform) and were provided with the responsibility for plan design.

Currently, treatment for the symptoms associated with PTSD is covered by the SHBP under the rules regarding coverage for non-biologically based mental illness. Although the SHBP statutes limit coverage for non-biologically mental illness to maximums of \$10,000 per calendar year and \$20,000 for the entire period of the person's coverage under the plan (N.J.S.A. 52:14-17.29), these limits have been pre-empted as a result of the enactment of federal legislation. Biologically based mental illnesses were, at one time, also subject to these statutory limits. However, with the enactment P.L. 1999, c.441, biologically based mental illnesses are no longer subject to these limitations and are covered under the same terms and conditions as any other sickness under the SHBP/SEHBP.

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