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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. B. Young and T. Young

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SUMMARY

- Requires health insurers and the Medicaid program to cover specified treatments and services related to Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) and Pediatric Acute Onset Neuropsychiatric Syndrome (PANS).
- Requires the cost sharing requirements for this coverage to be no less favorable than the cost sharing applicable to other medical and surgical benefits.
- Specifies that this coverage is not to be subject to either step therapy protocols or prior authorization requirements, and not to be contingent on a patient's symptoms meeting a specified severity threshold or a patient having a specified immunodeficiency status.
- Makes the coverage requirement inoperative if, at any time, the state is required under the Affordable Care Act to defray the costs of the coverage.
- Designates October 9 of each year as "PANDAS and PANS Awareness Day."

DETAILED ANALYSIS

PANDAS or PANS coverage

The bill requires health plan issuers and the Medicaid program to cover screening, diagnosis, and treatment of Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) as well as Pediatric Acute Onset Neuropsychiatric Syndrome (PANS).¹

The required coverage must include, at a minimum, all of the following:

¹ R.C. 3902.63(B) and 5164.092(B).

- Comprehensive diagnostic evaluation, symptomatic relief, and related services, including laboratory, radiology, psychiatric, and behavioral services;
- Immunomodulatory therapies, including immunoglobulin therapy, corticosteroids, plasmapheresis, and rituximab or similar products;
- Antimicrobial treatment, including antibiotics and antivirals;
- Therapeutic care, which may include services provided by a licensed speech therapist, speech-language pathologist, occupational therapist, or physical therapist.²

Under continuing law, a “health benefit plan” means an agreement offered by a health plan issuer (such as a sickness and accident insurance company, a health insuring corporation, a fraternal benefit society, a self-funded multiple employer welfare arrangement, a nonfederal government health plan, or a third-party administrator) to provide or reimburse the costs of health care services. The term includes limited benefit plans, except for policies that cover only accident, dental, disability income, long-term care, hospital indemnity, supplemental coverage, specified disease, vision care, and other specified types of coverage. “Health benefit plan” does not include a Medicare, Medicaid, or federal employee plan.³

Cost-sharing

The bill prohibits a health plan issuer and the Medicaid program from imposing on PANDAS and PANS coverage a cost-sharing requirement (e.g., deductibles, coinsurance, and copayments) that is less favorable than the cost-sharing requirement applicable to other medical and surgical benefits the health insurer or program provides.⁴

Step therapy, prior authorization, and patient medical status

The bill specifies that the PANDAS and PANS coverage is not subject to either step therapy protocols or prior authorization requirements. It also provides that the coverage is not contingent on a patient’s symptoms meeting a specified severity threshold or a patient having a specified immunodeficiency status.⁵

Continuing law defines “step therapy protocol” as a requirement that prescription drugs for a specified medical condition be delivered in a specific sequence, consistent with medical or scientific evidence, in order to qualify for coverage under a health benefit plan.⁶ Continuing law defines “prior authorization requirement” as a practice in which coverage of a health care service, device, or drug is dependent upon a covered person or a health care practitioner

² R.C. 3902.63(D) and 5164.092(D).

³ R.C. 3902.50(E) and R.C. 3922.01, neither in the bill.

⁴ R.C. 3902.63(C) and 5164.092(C).

⁵ R.C. 3902.63(E) and 5164.092(E).

⁶ R.C. 3902.50(K) and R.C. 3901.83, not in the bill.

obtaining approval from the health plan issuer prior to the service, device, or drug being performed, received, or prescribed.

Exemption from review by the Superintendent of Insurance

The bill's coverage requirements might be considered a mandated health benefit. Under R.C. 3901.71, if the General Assembly enacts a provision for mandated health benefits, that provision cannot be applied to any health benefit plan until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal "Employee Retirement Income Security Act of 1974," (ERISA),⁷ and to employee benefit plans established or modified by the state or any of its political subdivisions. ERISA appears to preempt any state regulation of such plans.⁸ The bill contains provisions that exempt its requirements from this restriction.

Affected health benefit plans

The bill's requirements relating to health benefit plans apply to plans delivered, issued for delivery, modified, or renewed on or after the bill's effective date.⁹

Affordable Care Act

The bill specifies that its coverage requirement becomes inoperative if, at any time, the state is required by the following to defray the costs of that coverage:

1. Provisions of the federal Patient Protection and Affordable Care Act; or
2. Rules promulgated or guidance issued by the Secretary of the U.S. Department of Health and Human Services.¹⁰

PANDAS and PANS Awareness Day

The bill designates October 9 of each year as "PANDAS and PANS Awareness Day."¹¹

Background on PANDAS and PANS

PANS is a clinical diagnosis given to children who have a dramatic – sometimes overnight – onset of neuropsychiatric symptoms including obsessions or compulsions or food restriction. These children are often diagnosed with obsessive-compulsive disorder (OCD) or an eating disorder, but the sudden onset of symptoms separates PANS from these other disorders. Children also may experience depression, irritability, anxiety, and have difficulty with schoolwork. In most cases, the cause of PANS is unknown, but is thought to be triggered by infections, metabolic disturbances, and other inflammatory reactions.

⁷ 29 United States Code (U.S.C.) 1001, as amended.

⁸ 29 U.S.C. 1144.

⁹ R.C. 3902.63(B).

¹⁰ R.C. 3902.63(F) and 5164.092(F).

¹¹ R.C. 5.22108.

Like PANS, children diagnosed with PANDAS have an acute onset – within a few days – of neuropsychiatric symptoms, specifically OCD or tics (involuntary, purposeless movements). However, PANDAS patients test positive for a recent streptococcal infection, such as strep throat, peri-anal strep, or scarlet fever. Like PANS patients, they also may suffer from uncontrollable emotions, irritability, anxiety, and loss of academic ability and handwriting skills. Although PANDAS was identified as a medical syndrome more than a decade before PANS, it has been classified as a subset of PANS. To date, PANDAS is the only known subset of PANS, but more causes may be discovered in the future.¹²

COMMENT

Article II, Section 26 of the Ohio Constitution generally prohibits the General Assembly from enacting laws that take effect on any other authority. The exceptions to this rule are: (1) laws relating to public schools, and (2) any provision of the Constitution that specifies that General Assembly actions are contingent on a vote of the people. The bill’s provision that rescinds PANDAS and PANS coverage requirements if the federal government elects to defray the cost of such coverage might raise questions as to whether it is an unauthorized delegation of legislative authority.

HISTORY

Action	Date
Introduced	03-28-23

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¹² Stanford Medicine, Department of Pediatrics, Division of Allergy, Immunology, and Rheumatology, [PANS: Pediatric Acute-onset Neuropsychiatric Syndrome](#), which is available by conducting a keyword search for “PANS” on the Stanford School of Medicine website: med.stanford.edu; see also, [PANDAS – Questions and Answers \(PDF\)](#), which is available by conducting a keyword search for “PANDAS” on the National Institute of Mental Health’s website: nimh.nih.gov.