Mandated Benefits Review by the Pennsylvania Health Care Cost Containment Council

House Bill 350

Hearing Aids

September 2005

Pennsylvania Health Care Cost Containment Council
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EXECUTIVE SUMMARY

After reviewing the analysis of House Bill 350, the Pennsylvania Health Care Cost Containment Council does not find sufficient evidence to support this legislation in its present form. In coming to this recommendation, we note the following points:

House Bill 350 would require health insurance policies to provide coverage for hearing aids sold in accordance with section 403 of the act of November 24, 1976 (P.L. 1182, No. 262), known as the "Hearing Aid Sales Registration Law." In accordance with Act 14 of 2003, the Council was asked to review House Bill 350 with regard to the social and financial impact and medical efficacy of the proposal.

The Council's role in conducting reviews of this nature is primarily to determine if sufficient evidence is available to proceed to a more formal Mandated Benefits Review Panel as outlined in Act 14 of 2003, (i.e., contracting with a panel of outside experts to review the scientific validity of the studies submitted). Act 14 places the burden of providing scientific data and information regarding the proposed mandate on interested parties (e.g., proponents and opponents of the legislation). While the Council conducts its own research as appropriate (e.g., examining hospital admissions when relevant), the reviews rely almost entirely upon outside information as detailed in the enabling legislation. In the case of House Bill 350, there was not sufficient information submitted to the Council to recommend the bill or to continue with a more formal review process.

While insufficient evidence was available to the Council, there were nevertheless some points that may be of interest to the General Assembly:

- In its present form, the mandate appears to be "open-ended" in that it does not limit the benefit to any sector of the population, require a prescription*, or impose any limitations on cost, type, or frequency of hearing aid purchases. Currently, seven other states mandate a hearing aid benefit; however, all impose some restrictions.

- Assuming utilization rates ranging between 25 and 75 percent, the first-year costs of providing this coverage may range between $607 million and over $1 billion, depending on whether the individual needs one or two hearing aids. Annual costs would range between $157 million and $314 million, depending, again, on whether the individual needs one or two hearing aids and how often the hearing aids are replaced. Insufficient information was provided to determine more precise figures and no information was provided that would allow an assessment of cost savings.

- The limited information provided to the Council did not provide the needed evidence that the lack of insurance coverage for hearing aids results in inadequate health care or financial hardship for Pennsylvanians.

* The Hearing Aid Sales Registration Law requires a physician recommendation for all sales to minors. Sales may be made to adults that have not obtained such a recommendation, if they sign a waiver stating that they choose not to seek a medical examination.

- Finally, while the Council is sympathetic to the fact that hearing loss isolates people, hinders communications, and adversely affects functionality in work, school, and social environments, the Council urges caution when considering health care mandates. In particular, attention must be given to the cumulative financial effect of enacting mandates in Pennsylvania. Citations that highlight the financial impact on mandates include:

  New York State Mandated Health Insurance Benefits (Novak, May 2003)
  - In New York mandated benefits increased premiums by 12.2 percent, an increase of $444.57 per year for single coverage and $1,066.37 per year for family coverage.

  Health Insurance Mandates in the States (Council for Affordable Health Insurance, January 2005)
  - Mandated benefits increased the costs of basic coverage from slightly less than 20 percent to greater than 50 percent, depending on the state (over 1,800 mandates analyzed).

  The Factors Fueling Rising Healthcare Costs (PricewaterhouseCoopers, April 2002)
  - Of the $67 billion increase in national health care costs between 2001 and 2002, 15 percent or $10 billion was attributable to health benefit mandates and regulations.

REVIEW OF HOUSE BILL 350

Overview of Bill

House Bill 350 would mandate that all individual and group health insurance polices provide coverage for hearing aids sold in accordance with section 403 of the Hearing Aid Sales Registration Law, Act 262 of 1976. House Bill 350 does not limit the benefit to any sector of the population, require a prescription*, or impose any limitations on cost, type, or frequency of hearing aid purchases.

Mandated Benefits Review Process

The Pennsylvania Health Care Cost Containment Council's enabling legislation, Act 89 of 1986 (as re-authorized by Act 34 of 1993 and Act 14 of 2003), provides that the Council review existing or proposed mandated health benefits when requested by the executive and legislative branches of government.

On February 22, 2005 Representative Nicholas A. Micozzie, Chairman of the House Insurance Committee, requested that the Council review the provisions of House Bill 350 (PN 371 – Representative Grucela). House Bill 350 would require health insurance policies to provide coverage for hearing aids sold in accordance with section 403 of the act of November 24, 1976 (P.L. 1182, No. 262), known as the 'Hearing Aid Sales Registration Law."

Notification was published in the *Pennsylvania Bulletin* on March 12, 2005 requesting that interested parties submit documentation and information pertaining to the bill to the Council. Letters were also sent to potentially interested individuals and organizations informing them of the pending review and inviting them to submit information pursuant to the notice. Following the initial comment period, an opportunity was provided for interested individuals and organizations to examine the responses received and submit a second round of documentation. Final submissions were due to the Council on July 11, 2005. The Pennsylvania Department of Health and the Insurance Department were notified of the review and received a copy of the submissions.

A list of the submissions received and a copy of the bill are attached.

Act 14 provides for a preliminary Council review to determine if the documentation submitted is sufficient to proceed with the formal Mandated Benefits Review process outlined in the Act. This formal process involves another step beyond Council review by contracting with five additional experts to review the documentation submitted by proponents and opponents.

This report presents the results of the Council's preliminary review and conclusions regarding whether the material is sufficient to proceed with the formal review process.

* The Hearing Aid Sales Registration Law requires a physician recommendation for all sales to minors. Sales may be made to adults that have not obtained such a recommendation, if they sign a waiver stating that they choose not to seek a medical examination.

Analysis of Documentation Submitted by Opponents and Proponents in Response to the Eight Categories Required by Act 14, Section 9

(i) The extent to which the proposed benefit and the services it would provide are needed by, available to and utilized by the population of the Commonwealth.

Affected population. BlueCross of Northeastern Pennsylvania cited the Pennsylvania Department of Health figures for 2001-02 stating that one percent or 22,000 of Pennsylvania's school-age students had a hearing disorder. The Pennsylvania SHHH (Self Help for Hard of Hearing People) organization stated that one in every three Pennsylvania adults over 65 has some degree of hearing loss. National figures presented by Highmark were similar, 1.7 percent of children under 18 and 31.4 percent of adults over 65 are affected by hearing impairments.

Utilization. The Pennsylvania Academy of Audiology noted that only 20 percent of individuals who are deaf or hard of hearing wear hearing aids. In addition, BlueCross of Northeastern Pennsylvania and Highmark reported that, of those who wear hearing aids, only half wear them 8 hours per day, 7 days a week.

Availability. Highmark reported that hearing aids are available for purchase through a number of registered hearing aid outlets and come in a variety of forms, from disposables costing $50 to ones incorporating the latest technology and costing up to $7,000. BlueCross of Northeastern Pennsylvania reported that per Milliman USA, the average cost of one hearing aid is $1,696. Hearing aids are also available to individuals needing financial assistance to purchase them. A detailed list of these organizations is provided under requirement (iii).

(ii) The extent to which insurance coverage for the proposed benefit already exists, or if no such coverage exists, the extent to which this lack of coverage results in inadequate health care or financial hardship for the population of the Commonwealth.

The submissions received reported that the majority of insurance carriers in Pennsylvania do not cover the costs of hearing aids. Those that do offer coverage include Medicaid managed care plans for children, some Medicare HMOs, and a few commercial plans that provide coverage through optional riders.

The proponents of the mandate proposed in House Bill 350 claimed that thousands of individuals go without hearing aids because they cannot afford them. Opponents agreed that the costs of hearing aids might be prohibitive; however, they asserted that the financial hardship on families might be worse depending on the ramifications of providing such a broad benefit (e.g., increased premiums or reduced coverage in other areas). Unfortunately, the submissions received by the Council did not include information sufficient to determine the extent to which the lack of coverage results in inadequate health care or financial hardship.

(iii) The demand for the proposed benefit from the public and the source and extent of the opposition to mandating the benefit.

Support for House Bill 350

The Council received submissions from two organizations in support of the hearing aid mandate. The Pennsylvania Academy of Audiology claimed that the demand for the benefit is evidenced by patients who regularly ask their audiologists if insurance will cover the cost of hearing aids, but did not provide specific figures. Both the Pennsylvania Academy of Audiology and Pennsylvania SHHH (Self Help for Hard of Hearing People) stated that many of the children and adults who are deaf or hard of hearing are unable to afford the cost of hearing aids. They suggested that the financial burden might be the reason only 20 percent of those who would benefit from hearing aids wear them. The proponents reported on the hardships suffered by those with hearing impairments: Hearing loss isolates people, hinders communications, impairs self-esteem and adversely affects functionality in work and social environments; for children hearing loss is detrimental to their development of language and their ability to participate in the educational process. The proponents submit that mandated benefits for hearing aids would allow the thousands of Pennsylvanian's who cannot afford them to improve the quality of their lives.

Opposition to House Bill 350

The Council received submissions from five organizations that oppose the hearing aid mandate. Arguments against the mandate were grounded in the following observations: 1) the mandate is open-ended, 2) current opportunities exist for those in need of financial help to obtain hearing aids, and 3) numerous studies have demonstrated that mandates increase total health care costs.

Hearing aid mandate is open-ended

Each of the opponents expressed concern that the mandate does not limit the benefit to any sector of the population, require a prescription*, or impose any limitations on cost, type, or frequency of hearing aid purchases. The Insurance Federation of Pennsylvania, cited the conclusion of Washington state's "Mandated Benefits Sunrise Review" (January 2005), which recommended that "no legislation be considered unless it contains both frequency controls and caps." At this time there are seven states that mandate a hearing aid benefit; however, all of the mandates impose some restrictions. BlueCross of Northeastern Pennsylvania noted that because of the open-ended nature of House Bill 350, coverage would be mandated for numerous forms of hearing aids including some that are still considered experimental, are not medically necessary, not FDA approved, or supported by evidenced-based peer reviewed literature.

Current opportunities for obtaining hearing aids

Highmark provided a detailed list of organizations that provide financial assistance for the purchase of hearing aids. The list included government sponsored programs such

* The Hearing Aid Sales Registration Law requires a physician recommendation for all sales to minors. Sales may be made to adults that have not obtained such a recommendation if they sign a waiver stating that they choose not to seek a medical examination.

as Medicaid; Medicare; State Department of Rehabilitation; Maternal and Child Health Service and Youth Projects; Infant Hearing Education, Assessment, Reporting and Referral Act (IHEARR); and Veteran's Assistance. Private organizations included local chamber of commerce programs, local chapters of service organizations, employer managed flexible spending accounts and health savings accounts, as well as employer or union assistance via the Americans with Disabilities Act (ADA). Highmark also noted that even though they offer a health insurance rider that covers hearing aids few employers have opted to purchase it; and, when the rider has been purchased, utilization has been low.

Mandates increase total healthcare costs

Rather than ensure better health care, opponents state that mandates increase premium costs, reduce health coverage for some individuals, and force others to become uninsured. The opponents suggest the following scenario as one of the mechanisms that increase the total cost of health care: large employers become self-insured to avoid mandates, this increases the burden on the medium size and small businesses that are already struggling to provide their employees with health care coverage, these smaller employers are forced to pass on the costs to their employees, employees' real wages are affected through higher contributions toward health care coverage and/or lowered hourly rates or salaries. Some employees may not be able to afford the increases and join the ranks of the working uninsured. Others may be laid off and join the ranks of the unemployed uninsured. Either way health care costs are increased. Opponents of the hearing aid mandate cited recent studies regarding the impact of mandates on total health care costs:

New York State Mandated Health Insurance Benefits (Novak, May 2003)

- In New York mandated benefits increased premiums by 12.2 percent, an increase of $444.57 per year for single coverage and $1,066.37 per year for family coverage.

Health Insurance Mandates in the States (Council for Affordable Health Insurance, January 2005)

- Mandated benefits increased the costs of basic coverage from slightly less than 20 percent to greater than 50 percent, depending on the state (over 1,800 mandates analyzed).

Impacts of Four Legislative Provisions on Managed Care Consumers 1999-2003 (Barents Group, LLC)

- For every 1 percent increase in insurance premiums, an average of 120,000 working people are added to the rolls of the uninsured.
- Between 2000 and 2003, the number of employers offering health insurance decreased from 70 percent to 66.5 percent.

The Factors Fueling Rising Healthcare Costs (PricewaterhouseCoopers, April 2002)

- Of the $67 billion increase in national health care costs between 2001 and 2002, 15 percent or $10 billion was attributable to health benefit mandates and regulations.

(iv) All relevant findings bearing on the social impact of the lack of the proposed benefit.

The proponents of the mandate suggested that hearing difficulties isolate people, hinder communication, impair self-esteem, and adversely affect functionality in education, work and social environments.

Two of the five opponents of the mandate addressed this point of interest. Highmark, cited a National Institutes of Health Consensus Statement, which verified that hearing impairment has harmful affects on the social, emotional, cognitive and academic development of children and stated that relatively few deaf persons are employed in professional, technical, and management positions. Highmark noted that although they sympathize with those suffering from hearing loss, legislation that may price more businesses and individuals out of the health insurance marketplace is not the answer. They propose an alternative solution such as education programs that raise the awareness of the causes of hearing loss and ways that hearing loss can be avoided. In its submission the Insurance Federation of Pennsylvania claimed that it is not possible to gauge the social impact of not having the benefit without knowing how many citizens need, but do not have, hearing aids due to lack of insurance.

(v) Where the proposed benefit would mandate coverage of a particular therapy, the results of at least one professionally accepted, controlled trial comparing the medical consequences of the proposed therapy, alternative therapies and no therapy.

This point is not applicable to House Bill 350.

(vi) Where the proposed benefit would mandate coverage of an additional class of practitioners, the result of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and those practitioners already covered by benefits.

This point is not applicable to House Bill 350.

(vii) The results of any other relevant research.

Neither the proponents nor opponents of the mandate proposed in House Bill 350 submitted any additional relevant research.

(viii) Evidence of the financial impact of the proposed legislation.

(A) The extent to which the proposed benefit would increase or decrease cost for treatment or service.

According to the Pennsylvania Academy of Audiology covering the cost of hearing aids would decrease the out of pocket expenses for the individual, but not necessarily impact the cost of treatment or service. No specific figures were made available.

The opponents of House Bill 350 did not address this particular point.

(B) The extent to which similar mandated benefits in other states affected charges, costs and payment for services.

The Pennsylvania SHHH claimed that fiscal impact studies of proposed mandated hearing aid benefits in California and Maryland concluded that minimal effects should be anticipated on state and local expenditures as a result of this coverage (neither copies of the actual studies nor citations were provided).

BlueCross of Northeastern Pennsylvania and Highmark reported that seven states currently have some level of hearing aid coverage and that each state imposes some limitations on the benefits. These mandates are relatively recent and no specific financial impact information is available.

(C) The extent to which the proposed benefit would increase the appropriate use of treatment or service.

Both BlueCross of Northeastern Pennsylvania and Highmark expect that the mandate would increase demand and utilization, but did not address the *appropriateness* of such an increase. According to Highmark when a service becomes eligible there is an immediate increase in utilization. Because of the open-ended nature of this particular mandate, Highmark expects that there might be a substantial increase in utilization.

(D) The impact of the benefit on administrative expenses of health care insurers.

Using estimated numbers provided by BlueCross of Northeastern Pennsylvania, Council staff calculated that administrative expenses for BlueCross of Northeastern Pennsylvania would increase by approximately $203,000.

In order to determine a reasonable estimate, Highmark actuaries imposed several limitations upon the proposed benefit including the purchase of one hearing aid every three years with a $1,000 dollar maximum allowance. They found that annual administration costs would increase by $1.7 million.

(E) The impact of the proposed benefits on benefits costs of purchasers.

Proponents and opponents noted the difficulty in providing an estimate of the impact on the benefits costs of purchasers because of the lack of data on the number of Pennsylvania residents that would utilize the benefit and the open-ended nature of the mandate.

Pennsylvania SHHH reported that Minnesota law provides for coverage of 80 percent of the cost of one hearing aid per year and indicated that the cost to purchasers for a single employee is $0.15 to $0.23 per month and $0.35 to $0.57 per month for an employee and family member.

BlueCross of Northeastern Pennsylvania estimated that a total of $1,694,972 would be calculated into their insurance rates annually. This number included $1,491,576 ($0.497pmpm) for utilization costs and was based on the national average cost of $1,696 per hearing aid and a commercial utilization rate of 4.4 per 1,000 members.

Highmark actuaries imposed several limitations upon the proposed benefit and found that their annual claims expense would increase by $15 million. As with BlueCross of Northeastern Pennsylvania, Highmark stated that the increase in utilization and administrative costs would be passed on to purchasers.

Each of the opponents reiterated their contention that rather than ensure better health care, mandates increase premium costs, reduce health coverage for some individuals, and force others to become uninsured, which in turn increases the overall cost of health care in Pennsylvania.

(F) The impact of the proposed benefits on the total cost of health care within the Commonwealth.

Population affected by hearing impairment. The population figures included in this cost estimate are based on the U.S. Census Bureau's estimates for 2003. The population estimate for Pennsylvania was 12,365,455. In 2000 the census reported that 23.8 percent of Pennsylvanians were under the age of 18 years. Using these figures the staff estimated that in 2003 there were 2,942,978 children and 9,422,477 adults living in Pennsylvania.

The National Institute on Deafness and Other Communication Disorders, a division of the National Institutes of Health, estimates that 17 in 1,000 children suffer from hearing loss. Given this estimate and the estimated population of children for 2003, staff calculated that 50,031 Pennsylvanians under the age of 18 are affected by hearing impairments.

The Centers for Disease Control and Prevention reported in the "Summary Health Statistics for U.S. Adults: National Health Interview Survey, 2003," that 15 percent of adults 18 years and over experience some difficulty hearing without a hearing aid. Given this estimate and the estimated population of adults for 2003, staff calculated that 1,413,372 Pennsylvania adults are affected by hearing impairments.

Projected utilization of mandated benefit. To estimate the number of individuals that might be utilizing the benefit mandated by HB 350, Council staff turned to data presented by M. Diane Koken, Commissioner of the Pennsylvania Insurance Department, to the House of Representatives on April 5, 2005. In 2003, approximately 3,265,000 Pennsylvanians participated in government sponsored insurance programs, 3,486,000 participated in self-insured programs, and 4,029,000 participated in fully insured, private health insurance programs.

To determine the number of individuals with private plans that might utilize the hearing aid benefit, the estimates used to determine the number of Pennsylvanians that suffered from hearing loss were applied to the number of individuals that participate in fully insured, private health insurance plans in 2003 (see Table 1). First, it was estimated that of the 4,029,000 individuals insured, 958,902 are children and 3,070,098 are adults. Second, it was estimated that 16,301 children and 460,515 adults suffer from hearing impairments and might choose to purchase hearing aids through their insurance plan.

Table 1. The number of individuals affected by hearing impairments that participate in fully insured, private health insurance plans.

	Calculation for Children	Calculation for Adults
Number of individuals insured	4,029,000	4,029,000
Percent of population	23.8%	76.2%
Number of children versus adults	958,902	3,070,098
Percent affected by hearing loss	1.7%	15.0%
Number affected by hearing loss	16,301	460,515

Cost of hearing aids. As noted earlier under category (i), the average cost of a hearing aid is approximately $1,696. Typically, hearing aids need to be replaced once every three to five years. However, due to growth factors children might need to have them replaced more often.

Projected cost of hearing aid coverage. Projected costs were based on two assumptions: 1) the first year of mandated coverage would be a “start-up” year during which all of those who choose to take advantage of the benefit would purchase either one or two hearing aids, and 2) the second year and each of the following years would be “continuing” years during which those who had chosen to take advantage of the benefit would be purchasing hearing aids based on replacement needs (children would replace hearing aids approximately every two years and adults approximately every four years). Calculations are displayed in Table 2.

Table 2. Cost of hearing aids for start-up and continuing years.

Assuming 25% utilization	Start-up Year	Continuing Years
Utilization by children (replace hearing aids every 2 years)	4,075	2,038
Utilization by adults (replace hearing aids every 4 years)	115,129	28,782
Total individuals affected by hearing loss	119,204	30,820
Average cost of one hearing aid	$1,696	$1,696
Total costs for one hearing aid	$202,169,984	$52,270,720
Total costs for two hearing aids	$404,339,968	$104,541,440
Assuming 50% utilization		
Utilization by children (replace hearing aids every 2 years)	8,151	4,075
Utilization by adults (replace hearing aids every 4 years)	230,258	57,564
Total individual affected by hearing loss	238,409	61,639
Average cost 1 hearing aid	$1,696	$1,696
Total cost for one hearing aid	$404,341,664	$104,539,744
Total cost for two hearing aids	$808,683,328	$209,079,488
Assuming 75% utilization		
Utilization by children (replace hearing aids every 2 years)	12,226	6,113
Utilization by adults (replace hearing aids every 4 years)	345,386	86,347
Total individual affected by hearing loss	357,612	92,460
Average cost 1 hearing aid	$1,696	$1,696
Total cost for one hearing aid	$606,509,952	$156,812,160
Total cost for two hearing aids	$1,213,019,904	$313,624,320

SUBMISSIONS FOR HOUSE BILL 350

1. **BlueCross of Northeastern Pennsylvania** (Kimberly J. Kockler, Director, Policy Management)

   A. Letter dated May 11, 2005, opposed House Bill 350 and addressed section 9 requirements.
   B. Centers for Medicare & Medicaid Services. Your Medicare Coverage: Hearing Exams and Hearing Aids. Retrieved May 4, 2005 from http://www.cms.hhs.gov/med/viewarticle_asp?article_id=13946&article_version=2&show=all
   C. Pennsylvania Insurance Department (2005). The Health Insurance Status of Pennsylvanians: Statewide Survey Results.
   D. Council for Affordable Health Insurance (2005). Health Insurance Mandates in the States, 2005.
   E. Price WaterhouseCooper (2002). Factors Driving Rising Healthcare Premiums (2001-2002). Washington, D.C.

2. **Highmark, Inc.** (Michael G. Warfel, Vice President, Government Affairs)

   A. Cover letter dated May 12, 2005, opposed House Bill 350.
   B. Highmark, Inc. (2005). Mandated Benefits Submission to the Pennsylvania Health Care Cost Containment Council: House Bill 350 (Printer's Number 371), Hearing Aid Mandate.
   C. Maine Bureau of Insurance (2003). A Report to the Joint Standing Committee on Insurance and Financial Services of the 121st Maine Legislature: Review and Evaluation of LD 1087, an Act to Require All Health Insurers to Cover the Cost of Hearing Aids.
   D. Novak, D. (2003). New York State Mandated Health Insurance Benefits.

3. **The Insurance Federation of Pennsylvania** (John R. Doubman, Secretary & Counsel)

   A. Letter dated May 12, 2005, opposed House Bill 350 and addressed section 9 requirements.
   B. Price WaterhouseCooper (2002). Factors Driving Rising Healthcare Premiums (2001-2002). Washington, D.C.

4. **The Managed Care Association of Pennsylvania**

   A. Letter dated May 12, 2005, opposed House Bill 350.
   B. Price WaterhouseCooper (2002). Factors Driving Rising Healthcare Premiums (2001-2002), Table 1. Washington, D.C.
   C. Washington Bureau – bizjounals (2005, May 2). Retrieved May 12, 2005 from http://www.bizjournals.com/estradege/washingtonbureau/archive/2005/05/02/bureau2.html.

5. **Pennsylvania Academy of Audiology** (Sherman G. Lord, M.S., FAAA, President)

   A. Letter dated May 11, 2005, supported House Bill 350 and addressed section 9 requirements.

6. **Pennsylvania SHHH (Self Help for Hard of Hearing People)** (Diana Bender, State Director)

   A. Letter dated May 11, 2005, supported House Bill 350 and addressed section 9 requirements.

7. **Pennsylvania Chamber of Business and Industry *(Floyd Warner, President)***

   A. Letter dated March 18, 2005, opposed House Bill 350.