



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**OPTOMETRIC HEALTH INS.**

**House Bills 4569 and 4570 with committee amendments**

**Sponsor: Rep. David M. Gubow**

**House Bills 4571-4573 with committee amendments**

**Sponsor: Rep. John Jamian**

**First Analysis (5-26-93)**

**Committee: Public Health**

***THE APPARENT PROBLEM:***

Under the Insurance Code, if a health insurance policy offers reimbursement for a service within the scope of practice of certain licensed health professionals, the policy is required to offer reimbursement for all services within the professional's legal scope of practice. Health insurers and large purchasers of health insurance (such as businesses and labor unions) typically oppose increases in the scope of practice of health professionals, arguing that increases in legal scopes of practice will result in increases in their health care costs because increasing a legal scope of practice has the effect of mandating that insurance policies pay for these expanded services.

House Bill 4331, which is pending before the House, would expand the scope of practice of optometrists to include the diagnosis of certain diseases of the front of the eye (currently, they can "determine" that a patient has defects of abnormal conditions that can be corrected by lenses) and the use of certain therapeutic drugs (to be determined by a proposed optometric "formulary panel" consisting of optometrists, ophthalmologists, and pharmacists). Companion legislation has been introduced to specify that if optometrists' scope of practice were to be expanded after May 20, 1992, insurance coverage for these new services would be optional, not mandatory.

***THE CONTENT OF THE BILLS:***

In general, the bills would exempt third party health insurance payers -- including health maintenance organizations, worker's compensation, prudent purchaser organizations, and Blue Cross and Blue

Shield of Michigan -- from having to pay for expanded optometric services that would be allowed by House Bill 4331.

House Bill 4571 would amend the Insurance Code (MCL 2243 et al.) to exempt insurance policies (including personal protection insurance benefits and prudent purchaser agreements with health care providers) covering optometric services from having to cover optometric services added after May 20, 1992. House Bill 4569 would amend the Public Health Code (MCL 333.21053) to allow health maintenance organizations (HMOs) to contract with optometrists to provide some or all optometric services allowed under the scope of practice of optometry. House Bill 4570 would amend the Worker's Disability Compensation Act (MCL 418.315) to allow employers to elect to not cover charges for optometric services if that optometric service was included in the definition of the practice of optometry after May 20, 1992. (The bill also would change all references to the Department of Management and Budget to the Department of Labor.) House Bill 4572 would amend the Prudent Purchaser Act (MCL 550.53) to allow organizations to enter into prudent purchaser agreements with optometrists to purchase some or all optometric services falling under the scope of practice of optometry. House Bill 4573 would amend the Nonprofit Health Care Corporation Act (the "Blue Cross and Blue Shield Act") to exempt Blue Cross and Blue Shield of Michigan from having to offer reimbursement for optometric services added after May 20, 1992.

House Bills 4569-4573 (5-26-93)

Tie-bar. House Bill 4331, which would expand the scope of practice of optometrists, could not take effect unless House Bills 4569-4573 were enacted.

### **BACKGROUND INFORMATION:**

Section 2243 of the Insurance Code currently says:

"(1) Notwithstanding any provision of a policy or contract of group accident, group health or group accident and health insurance, executed subsequently to the effective date of this provision, whenever such policy or contract provides for reimbursement of any optometric service which is within the lawful scope of practice of a duly licensed optometrist, a subscriber to such group accident, group health, or group accident and group health insurance policy or contract shall be entitled to reimbursement for such service, whether the said service is performed by a physician or a duly licensed optometrist. Unless such policy or contract of group accident, or group health or group health or group accident and health insurance shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, spectacles, eyeglasses, or appurtenances.

(2) Whenever a subscriber contract shall provide for and offer optometric services, the subscriber shall have freedom of choice to select either a physician or an optometrist to render such services. Unless such subscriber contract shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, spectacles, eyeglasses, or appurtenances." (MCL 500.2243)

### **FISCAL IMPLICATIONS:**

Fiscal information is not available at present. (5-25-93)

### **ARGUMENTS:**

#### **For:**

Proponents of the bills argue that without the bills, health care costs would rise even higher and faster than at present. What is more, since state-required health insurance payments are a key factor in why many Americans -- especially the working poor -- do not have health insurance, the bills would be a step in the direction of making health insurance affordable for more people. Small employers are disproportionately affected as the major group that

actually buy health insurance (since large employers usually are self-insured, federal law exempts them from state requirements), and the people most likely to be adversely affected by increased insurance costs tend to be the employees of small businesses and some of the elderly, poor, and disabled (the last three of whom, technically, don't have health insurance because Medicaid and Medicare are direct entitlement programs).

Current state laws, in various insurance statutes, have the effect of requiring payments to optometrists for all of their services authorized in their scope of practice (under the Public Health Code). Technically, the statutory requirements apply only if an insurance policy covers the same services when provided by any other licensed health professional, but since all known health insurance policies cover all diseases of the eyes, increasing the scope of practice of optometrists without these bills would trigger mandated payments for these additional services since the only way to avoid this trigger would be to exclude eyes from health insurance policies. The bills would amend the insurance statutes so that the automatic payment requirements would not apply to the pending effort to expand the optometric scope of practice, while at the same time the bills would not change state required payments for the present responsibilities of optometrists.

#### **For:**

The state should not be involved in mandating what health services should be paid for in the first place. What is legal for optometrists to do (that is, their legal scope of practice) is appropriate for the state to determine in the interests of protecting public safety. However, what health service should be pre-paid under health insurance is something that the purchasers of the policies -- and not the state government -- should decide. Tie-barring the optometric expansion of scope of practice bill (House Bill 4331) to these bills would allow the state to decide whether optometrists have the training and experience to safely diagnose and treat certain eye diseases with certain therapeutic drugs, but it also would allow purchasers of health care to decide whether or not they wanted to pay for these services. That is, employers, by themselves or through collective bargaining with employees (as well as individuals) would have the freedom to choose those health benefits that they believed to be most important and appropriate to their needs. Optometrists would legally be able to perform

additional services, but they would have to persuade purchasers of the value of these new optometric services, both in terms of their appropriateness and cost-effectiveness.

***Against:***

If the state should not be mandating which services should be covered, then why not simply eliminate the existing mandates and allow market forces to regulate the health insurance industry?

***Response:***

Politically, there would be a firestorm of opposition if the existing mandated benefits were to be eliminated. But at the very least, the state should not add to the impact of these required payments by mandating coverage for expanded scopes of practice, whether optometric or the other health professions that benefit from the existing state insurance code provisions (chiropractors, dentists, Ph.D. psychologists, and podiatrists).

***Against:***

It is unfair to single out optometrists for exemption of insurance payments for expanded scope of service practices. At the very least, the bills should cover the other health professions falling under existing state requirements.

***Response:***

Optometrists and chiropractors currently are the only two health professions under these special insurance payment requirements that are trying to expand their scope of practice (and thus add to the extension of these state required insurance payments).

***Against:***

Opponents of the bill also argue that it is questionable whether or not expansion of optometric scope of practice -- and the concomitant expansion of mandatory health insurance payments - - actually will increase costs. In fact, they argue that costs will be reduced because instead of having to refer optometric patients to physicians (some of whom may not be as well-trained in eye care as optometrists, who specialize in eyes), primary care can be provided for such conditions as "red eye," the initial management of glaucoma, certain corneal abrasions, and other common eye disorders. The expansion in scope of practice for optometrists will increase the number of primary care providers for certain eye services, obviating the necessity for secondary (and costly) referrals, loss of work time, and so forth. Finally, the expansion in the scope of practice for optometrists would result in increased

costs only if one assumes that there will be duplication of services rather than substitution of services for the same conditions, an assumption that has yet to be proven.

***POSITIONS:***

The Economic Alliance for Michigan supports the bills. (5-26-93)

The Michigan Optometric Association does not oppose the bills. (5-26-93)

Blue Cross and Blue Shield of Michigan has no position on the bills. (5-26-93)