

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 14, 1991

Hearing Room C 3:00 p.m.

Tapes 32 - 33

MEMBERS PRESENT: Sen. Bob Shoemaker, Chair Sen. Joyce Cohen, Vice
Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts STAFF
PRESENT: Barbara Coombs, Committee Administrator Mark Sigel,
Committee Assistant

MEASURES SB 29

CONSIDERED:

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statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 32, SIDE A

Witnesses: Mary Anne Stowell, Portland Public Schools Jeff Milner,
Portland Public Schools John Yunker, Salem Keizer School District Wilma
Welles, Confederation of Oregon School Administrators 000 CHAIR
SHOEMAKER: Calls meeting to order at 3:10.

028 MARY ANNE STOWELL, PORTLAND PUBLIC SCHOOLS: Submits (EXHIBIT A)
which is a proposed amendment to SB 29. Section 4 contains the new
language which makes HMOs subject to SB 29.

056 STOWELL: The intent of the amendment is solely to allow school
districts to bill for services that we provide within the school system
that would have been otherwise covered by the insurance company because
the policy included those services. 072 CHAIR SHOEMAKER: Is it the case
that the school will directly bill the insurer for reimbursement and the
family won't really be involved in the equation?

076 STOWELL: Our intention is to seek from the family their permission
to use their insurance. SENATE COMMITTEE ON HEALTH INSURANCE AND
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Once the family gives us permission to use their insurance, then we
would take over the responsibility, submit the claim to the insurers and
receive the reimbursement. If the family chose not to give us
permission, that is their right and we cannot obligate the family to
using that insurance if there would be a financial risk or burden to the
family.

083 CHAIR SHOEMAKER: Would you advise the family of the possibility
that by granting their permission that this would count against their
deductible and their lifetime cap and it could possibly even result in a
higher premium because of experience rating?

087 STOWELL: Yes. In fact we already have a packet which explains these
things. 110 STOWELL: We want to work with providers, HMOs etc. to
contain costs.

147 STOWELL: There is a question of whether this is a cost shift to
insurers. We believe it is not because prior to the passage of Public

Law 94-142 the insurers were paying for these services. So, we see this as a rebalancing of payment responsibilities.

173 STRONG: We estimate the cost of our amendment at somewhere between \$3 and \$7 million.

194 SENATOR ROBERTS: You said that the managed care would determine the medical treatment. Could that conflict with the parents' right to participate in the writing of the IEP?

198 STOWELL: We inform the parent at every point that they should maintain their rights under Public Law 94-142. 249 JEFF MILNER, PORTLAND SCHOOLS: Summarizes the federal legislation and asserts that this amendment is not a mandate.

310 CHAIR SHOEMAKER: Of the cases that you cited, the latest case concludes that the EHA does not prohibit insurers from contractually excluding from coverage those services that are provided under the EHA. Is that correct? 317 MILNER: That case was an out of state opinion which Oregon does not have to follow. We believe that it was wrongly decided. 351 JOHN YUNKER, SALEM KEIZER SCHOOL DISTRICT: Our school district is very supportive of SB 29. 414 WILMA WELLES, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: We support SB 29 and the Portland School Board amendment. TAPE 33, SIDE A Witnesses: Mary McWilliams, Sisters of Providence Peggy Anet, League of Oregon Cities 025 WELLES: In some districts we can't afford to hire full-time physical therapists. 050 MARY MCWILLIAMS, SISTERS IN PROVIDENCE: Submits (EXHIB11 B) which explains SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 14, 1991 - Page 3

that they object to the school-related amendments as they would affect HMOs. 095 CHAIR SHOEMAKER: Were you saying you would limit your services on acute care? 104 MCWILLIAMS: What I was saying is that there is a great overlap between what the schools and the HMOs provide in terms of physical, occupational and speech therapy. 160 CHAIR SHOEMAKER: I'd like to clarify this HMO issue for you. That subsection of the bill that deals with HMOs says that nothing in this section shall affect the ability of a school to contract with an HMO. It doesn't say they must do it. The other sections are meant to prohibit certain exclusions which might otherwise appear in a policy: "A policy shall contain any provision which denies benefits because services are rendered to an insured by or on behalf of a school or because services are not charged for." Do you think these sections impact HMOs unfavorably?

189 MCWILLIAMS: Section 8.1 says we can't deny benefits because the services are rendered by a school. To me that says we must pay for a service that is provided by a school district even if we have not entered into a contract with that school district to provide it.

205 CHAIR SHOEMAKER: I believe we will have some legally trained witnesses who can judge whether this really does affect HMOs.

230 SENATOR ROBERTS: I agree with the witness that subsection 1 should not apply to an HMO. But there should not be any objection to subsection 4. 244 McWILLIAMS: That's just how I see it. 255 PEGGY ANET, LEAGUE OF OREGON CITIES: Submits (EXHIBIT C) which explains that the League opposes the proposed amendment to SB 29 because it represents a new health insurance mandate. 330 CHAIR SHOEMAKER: You are suggesting that any service which might be provided by a school for which no charge is made would have to be reimbursed even if that service

is otherwise excluded? 333 ANET: That is correct.

334 CHAIR SHOEMAK - : That is certainly not what is intended. Now let's fix it. Do you have some proposed language?

335 ANET: The language would have to include the terms "medical necessity" and "services otherwise eligible under the contract". 340 CHAIR SHOEMAKER: I am more comfortable with the latter term. ..How about: "Services for which no charge is normally made and which is otherwise eligible for reimbursement under the contract." Do you accept that language?

351 ANET: Tentatively, yes.

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TAPE 32, SIDE B

Witnesses: John Powell, BCBSO

048 SENATOR ROBERTS: I remain convinced that the federal language says insurance companies must cover and pay for the appropriate services that children are covered for.

182 JOHN POWELL, BCBSO: We are opposed to the School Board amendment. We feel it is mandating a new service or set of services.

220 CHAIR SHOEMAKER: If a claim were put in for physical therapy or speech therapy and your policy covered that when it was medically necessary but not otherwise, doesn't that give you the opportunity to make the decision of whether the service is medically necessary or not?

226 POWELL: The wording in subsection 1 of section 8 does not say that the service has to be medically necessary ... it simply says there has to be a benefit that is paid by an insurer and is ordered by a school district.

237 CHAIR SHOEMAKER: If the policy says that the physical therapy is covered only when ordered by a physician and a school provides some physical therapy which was not ordered by a physician then you can deny the claim. 240 POWELL: Under this language we would have to pay it.

The policy says, paraphrasing, : "No policy issued or renewed shall contain any provision which denies limits, or reduces benefits because services are rendered to an insured or a dependent by or on behalf of an ESD or a school district. 255 CHAIR SHOEMAKER: I don't read it like you do, but what language would accomplish your purpose? Would you accept the language: "denies, limits, or reduces benefits for medically necessary services"? 256POWELL: Not necessarily, because in practice it will be a school district, an ESD or a superintendent of public instruction that will be making the determination of what services are "medically necessary". 277 CHAIR SHOEMAKER: What if we were to say: "benefits otherwise covered by the policy solely because those services are rendered by a school". This would give you complete control.

435 CHAIR SHOEMAKER: Closes public hearing.

TAPE 33, SIDE B

Witnesses: Phil Yarnell, Adult and Family Services 008 CHAIR SHOEMAKER:
Starts work session.

- What we want in the amendment is the language: "services that are deemed medically necessary in whatever fashion, the policy requires that determination to be made and that the benefits would

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only be those otherwise covered by the policy". This is not to extend benefits in any fashion.

020 CHAIR SHOEMAKER: Moves those amendments to the proposed amendment conceptually. Since there is no objection, those amendments are so moved.

022 MOTION: Senator Roberts moves the amendment as amended.

023 VOTE: Committee unanimously adopts amendment. 036 SENATOR COHEN: I don't think this amendment is going to get the school districts what they want.

037 SENATOR HAMBY: I don't either. 088 CHAIR SHOEMAKER: Resumes public hearing.

089 PHIL YARNELL, ADULT AND FAMILY SERVICES: Submits (EXHIBIT D) which is the bill with the AFS amendments. Explains that the purpose of the original bill is to make Medicaid the payor of last resort. This is extremely important because otherwise we will lose federal Medicaid matching funds.

100 SENATOR COHEN: I must go. But I want the committee to know I will propose another amendment at a future date.

106 CHAIR SHOEMAKER: Then we will have another hearing on this bill.

113 YARNELL: In the first hearing the committee asked us to draft language to relieve some of the industry's concerns that if they reimbursed the agency for a Medicaid payment that would be the extent of their obligation. They would not be required to make an additional payment to the provider to make up the difference between the Medicaid payment and the insurance policy standard payment for that service. We have redrafted that section to reflect the committee's desire.

124 CHAIR SHOEMAKER: I would like to have Phil Yarnell's amendments, Senator Cohen's amendments and the School Board's amendment put into an LC form so we can look at the whole thing and have those amendments before us when we reconvene. 132 CHAIR SHOEMAKER: Adjourns hearing at 4:47.

Submitted by: Reviewed by:

Mark Sigel
Administrator

Barbara Coombs Assistant

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EXHIBITS A - Portland School Board Proposed Amendment to SB 29, Hafner, 2 pages B - Testimony on SB 29, McWilliams, 3 pages C - Testimony on SB 29, Anet, 27 pages D - AFS Proposed Amendment, Yarnell, 4 pages

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