

**1999 DRAFTING REQUEST****Bill**Received: **02/15/99**Received By: **kenneda**Wanted: **As time permits**

Identical to LRB:

For: **Sheldon Wasserman (608) 266-7671**By/Representing: **Joe Hoey (aide)**This file may be shown to any legislator: **NO**Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - public health**Extra Copies: **TAY, PJK**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Infant hearing screening

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>      | <u>Reviewed</u>      | <u>Typed</u>       | <u>Proofed</u> | <u>Submitted</u>         | <u>Jacketed</u>             | <u>Required</u> |
|--------------|---------------------|----------------------|--------------------|----------------|--------------------------|-----------------------------|-----------------|
| /1           | kenneda<br>04/21/99 | chanaman<br>04/22/99 | hhagen<br>04/22/99 | _____          | lrb_docadmin<br>04/22/99 | lrb_docadminS&L<br>04/26/99 |                 |

FE Sent For:

04-29-99

&lt;END&gt;



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per Sara

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1?           | kenneda        | cmh<br>/        | 4/22         | JF 4/22        |                  |                 |                 |
|              |                | 4/22            |              |                |                  |                 |                 |

FE Sent For:

<END>

2239

2/11 Wasserman (Joe, aide)

Mandate that all newborns be tested for  
hearing loss - wis. mandate to cover  
State pick up cost for persons  
w/o third party payors

**MEMO**

**To:** Debora A. Kennedy, Legislative Reference Bureau

**From:** Joe Hoey, Representative Wasserman's Office

**Date:** 2/12/99

**Re:** Newborn Hearing Screening Draft Request

Debora,

Here is the copy of the Massachusetts Act that I pulled off of the Internet. I sent a copy to Pam Kahler yesterday. If you have any questions, please call and I'll get answers from Sheldon as soon as possible.

Thanks for your help.

Joey

# Chapter 243 of the Acts of 1998

## AN ACT PROVIDING FOR HEARING SCREENING OF NEWBORNS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Chapter 32A of the General Laws is hereby amended by inserting after section 17E, inserted by section 1 of chapter 140 of the acts of 1998, the following section:-

Section 17F. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under any of the terms or provisions of any policy, contract or certification.

**SECTION 2.** Chapter 111 of the General Laws is hereby amended by striking out section 67F, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 67F. For the purposes of this section, the words "newborn infant" shall mean an infant under three months of age, and the words "hearing screening test" shall mean a test to detect hearing thresholds of 30 decibels or greater in either ear in the speech frequency range.

✓  
Keep { A hearing screening test shall be performed on all newborn infants in the commonwealth in the birthing hospital or birthing center, or in the hospital from which the newborn infant is discharged to home. Such test shall be performed before the newborn infant is discharged from the birthing center or hospital to the care of the parent or guardian, or as the department may by regulation provide; provided, however, that such test shall not be performed if the parents or guardian of the newborn infant object to the test based upon the sincerely held religious beliefs of the parent or guardian. The hospital or birthing center shall inform a parent or guardian of the newborn infant and the newborn infant's primary care physician of such infant's failure to pass the test, or if such infant was not successfully tested. Such notification shall occur prior to discharge whenever possible, and in any case no later than ten days following discharge. The hospital or birthing center so informing the parent and physician shall provide information regarding appropriate follow-up for a screening failure or a missed screening.

The cost of providing the newborn hearing screening test shall be a covered benefit reimbursable by all health insurers, except for supplemental policies which only provide coverage for specific diseases, hospital indemnity, Medicare supplement, or other supplemental policies. In the absence of a third party payer, the charges for the newborn hearing screening test shall be paid by the commonwealth.

Do not keep { A newborn infant whose hearing screening test result indicates the need for diagnostic audiological examination shall be offered such examination at a center approved by the department. Such centers shall maintain suitable audiological support, medical and education referral practices in order to receive such approval. If no third party payer is liable for such cost, the commonwealth shall make reimbursement for

the cost of such follow-up diagnostic examinations.

There is hereby established an advisory committee for a statewide newborn hearing screening program consisting of the following members to be appointed by the commissioner: a representative of the health insurance industry; a pediatrician or family practitioner; an otolaryngologist; a neonatologist; a nurse representing newborn nurseries; two audiologists; a teacher of the deaf and hard of hearing; a representative of the commonwealth's early intervention program; a representative of the department; two parents of children who are deaf or hard of hearing; and one deaf and one hard of hearing adult to be designated by the Massachusetts commission for the deaf and hard of hearing. The advisory committee shall advise the department regarding proposed regulations and the validity and cost of screening procedures, and shall recommend standards for appropriate screening methodology based on updated technological developments, methods of recording results and follow-up from the screening program, and methods to facilitate interaction of professions and agencies which participate in follow-up. Members of the advisory committee shall serve without compensation. The advisory committee shall be provided support services by the department.

Do not  
Keep

The advisory committee shall elect a chairman from among its members.

Each hospital and birthing center which provides newborn infant care shall submit to the department for its approval a protocol for newborn hearing screening, including training and supervision of personnel by a licensed audiologist, test protocol, follow-up procedures, quality assurance and program statistics, at the onset of the program, following one full year of operation, prior to any significant changes in protocol, and at intervals specified by the department.

Keep  
?

Notwithstanding the requirements of this section for the provision of newborn hearing screening tests, if a birthing center does not have the equipment or ability to conduct such a test, the newborn infant shall be referred to a hospital or birthing center approved by the department for such test in accordance with the provisions of this section.

Keep

The department shall promulgate regulations to implement the newborn hearing screening program.

**SECTION 3.** Chapter 118E of the General Laws is hereby amended by inserting after section 10A the following section:-

Section 10B. The division shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under the terms or provisions of any policy, contract or certificate.

**SECTION 4.** Section 47C of chapter 175 of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, said policy shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law



or regulation of the commonwealth or of the United States or under the terms or provisions of any policy or contract.

**SECTION 5.** Section 8B of chapter 176A of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, any contract as described in this section, shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law or regulation of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

**SECTION 6.** Section 4C of chapter 176B of the General Laws is hereby amended by adding the following paragraph:-

In addition to such benefits, any subscription certificate, as described in this section, shall provide coverage for the cost of a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian or as provided by regulations of the department of public health. Nothing contained in this paragraph shall be construed to abrogate any other obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

**SECTION 7.** Chapter 176G of the General Laws is hereby amended by inserting after section 4J, inserted by section 5 of chapter 140 of the acts of 1998, the following section:-

Section 4K. A health maintenance contract shall provide coverage for a newborn hearing screening test to be performed before the newborn infant is discharged from the hospital or birthing center to the care of the parent or guardian, pursuant to regulations of the department of public health. Payment to physician, hospital or other provider for the costs of said test may be pursuant to the terms of a negotiated contract. Nothing contained in this section shall be construed to abrogate any other obligation to provide coverage for a hearing screening test or any other hearing screening test or audiological diagnostic procedure pursuant to any law of the commonwealth or of the United States or under the terms or provisions of any contract or certificate.

Approved August 7, 1998.

Return to:

[List of Laws passed in 1998 Session](#)

[General Court home page](#), or

[Commonwealth of Massachusetts home page](#).

3/12/99 From Representative Wasserman:

Fund test as:

{ MA benefit  
Badger Care benefit }  
Rest: sum suff. gpr

Take to LRB re }

= \$0 ; already covered

4/13 Questions:

Want advisory committee? (No)

Want DHFS to approve protocol? (No)

Want to add mandated ins. coverage? (Pam's bill)  
(No)

4/17

Joe Hany will get back to me concerning  
mention of a birthing center in the statutes



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 19, 1999

TO: Representative Sheldon Wasserman  
Room 111 North, State Capitol

FROM: Amie T. Goldman, Fiscal Analyst

SUBJECT: Universal Newborn Hearing Screening

At your request, I am providing information on a proposal to mandate universal newborn hearing screening. This proposal includes two components: (a) a requirement that health care plans in the state cover the cost of at least one hearing screen per covered newborn; and (b) a requirement that hospitals conduct a newborn hearing screen on all newborns prior to their discharge from the hospital. Your proposal would also provide state funding to cover the costs of newborn hearing screens in situations where there is no third-party liability for the costs of the screen.

**Background.** Studies have shown that hearing loss is one of the most common abnormalities present at birth. In Wisconsin, an estimated 200 to 400 babies are born each year with some degree of hearing impairment, making it the most common birth defect in the state. Without screening, children with hearing loss are usually not identified until delays in language development are observed, typically by 2 1/2 years of age. There has been concern about the average age of diagnosis because recent studies have provided evidence that children whose hearing loss was identified by six months of age demonstrated significantly better language skills than children identified after six months of age. The National Center for Hearing Assessment and Management at Utah State University indicates that children identified prior to six months of age are one to two years ahead of children identified after six months of age in language, cognitive and social skills by the time they enter first grade.

In 1998, researchers from the Medical College of Wisconsin and the Wisconsin Health and Hospital Association conducted a survey of hospitals in Wisconsin providing maternity services. Of the 107 qualifying acute care hospitals, 103 hospitals responded to the survey. The survey found that seven hospitals were performing universal newborn hearing screenings (UNHS) in 1998. An additional 11 hospitals reported selective screenings (screening infants identified as "at-risk" for hearing loss) and 89 hospitals reported that they did not conduct any screens. Approximately 10% of newborns received a hearing screen in 1997. The current practice of screening infants who are

determined to be "at-risk" is thought to be ineffective because approximately 50% of children with congenital hearing loss do not present any of the identified risk factors at birth.

Currently, there are nine states that require universal hearing screening for newborns, including: Colorado, Connecticut, Hawaii, Massachusetts, Mississippi, Rhode Island, Utah, Virginia and West Virginia.

**Mandatory Health Insurance Coverage.** Under current law, all disability policies in the state are required to provide health care coverage to any baby born to policyholder for a minimum of 60 days from the date of the birth.

Under your proposal, health care plans would also be required to cover at least one hearing screening test per covered child by the time the child reaches three months of age. A hearing screening test would be defined as a test to detect hearing thresholds of 30 decibels or greater. This requirement would apply to: (a) individual and group health insurance policies and plans, including managed care plans and cooperative sickness care associations; (b) health plans offered by the state to its employees, including a self-insured plan; and (c) self-insured health plans of counties, cities, towns, villages and school districts. The requirement would not apply to the following: (a) limited service health organizations; (b) Medicare replacement or supplement policies; and (c) long-term care insurance policies or policies covering only certain specified diseases.

**Screening Mandate.** Under current law, the state requires attending physicians or nurse midwives to ensure that every infant has blood drawn to test for congenital and metabolic disorders prior to the infant's discharge from the hospital or maternity home in which they were born. If an infant is born somewhere other than a hospital or maternity home, the attending physician or nurse midwife is required to ensure that blood is drawn within one week of the infant's birth. The Department of Health and Family Services is required to contract with the State Laboratory of Hygiene to analyze the blood samples. The State Laboratory of Hygiene is authorized to charge a fee to cover the costs of the blood test and any subsequent diagnostic and counseling services provided by DHFS. The current fee is \$55.50. This fee is included in the hospital bill for the maternity inpatient stay. This fee is either covered by the mother's insurance policy or is paid for out-of-pocket by the mother. DHFS estimates that 98% to 99% of newborns are successfully screened for congenital disorders.

Under your proposal, all hospitals and birthing centers in the state would be required to perform a hearing screening test on all newborns prior to their discharge from the hospital or birthing center. However, the test would not be performed if the parent or guardian of the newborn objected to the test based on sincerely held religious beliefs. The state would reimburse hospitals for the costs of the screen if the newborn was uninsured or the infant's insurance policy did not cover the cost of the screen.

**Fiscal Effect.** The state fiscal effect of your proposal to mandate hospitals to implement UNHS programs would vary depending on whether or not your proposal to mandate health plan

coverage for these screens was enacted. In calendar year 1997, there were approximately 65,500 births in Wisconsin. Approximately 98% of these births were paid by either private or publicly funded health insurance. Approximately 35% of the births were funded under the medical assistance (MA) program.

Newborn health screens are currently a covered benefit under the MA program. Children born to women enrolled in an MA HMO are automatically enrolled in the mother's HMO and the HMO receives a full month's capitation payment for the child regardless of the day of the month the child is born. The cost of hearing screens provided to these children would be the responsibility of the HMO and reimbursement for these screens is included in the current capitation payment. The cost of hearing screens provided to children born to women receiving fee-for-service MA benefits would be covered under the current payment made by the state to the hospital to cover the costs associated with the maternity inpatient stay. Consequently, it would not be necessary to increase funding for the MA program as a result of enacting the proposed health plan mandate.

State law requires health care plans to cover the costs of providing health care benefits to newborns for 60 days after their birth. However, private entities that are "self-insured" are exempt from insurance mandates, although they may elect to cover mandated services. Approximately 25% of the state's insured population is covered under a self-insured plan. Therefore under your proposal, if health plans were mandated to cover universal newborn hearing screening, the state would be liable for these costs for approximately 17% of all births, representing uninsured newborns and newborns covered under either a publicly or privately-financed self-insured plan that are exempt from the mandate. Based on a cost study conducted by the U.S. Centers for Disease Control and Prevention, it is assumed that, on average, a newborn hearing screen would cost approximately \$22.00. This cost includes staff time, equipment, supplies and overhead. Based on these assumptions, if an insurance mandate were enacted, the total cost of your proposal would be approximately \$250,000 annually.

If your proposed insurance mandate for mandatory insurance coverage were not enacted, the state would be liable for the costs of screening all births not paid for under the MA program. Under this scenario, the estimated cost of your proposal is \$942,000 annually. It should be noted that this fiscal estimate assumes that newborn hearing screening would not be a covered service under any private health plan. The Office of the Commissioner of Insurance does not maintain data that would indicate the extent to which these screens are currently covered. To the extent that a significant number of health plans currently cover or would cover the cost of the newborn hearing screens, this estimate may be overstated. This estimate may also overestimate the costs of your proposal because there is insufficient data available regarding the number of individuals who are covered under publicly-financed self-insured health plans. These plans would be subject to the mandate under your proposal.

I hope you find this information helpful. Please contact me if I can be of further assistance.



By 4/23, if possible - w edit 4/21

State of Wisconsin  
1999 - 2000 LEGISLATURE

D.NOTE

LRB-2389/1

DAK.....

cm1

1999 BILL

1 AN ACT <sup>sen cat</sup> relating to: infant hearing screening and making an appropriation.

*Analysis by the Legislative Reference Bureau*

This bill requires that a hospital, before discharging an infant who was born in or en route to the hospital or who received care in the hospital shortly after birth, or before the infant attains the age of three months, provide a hearing screening test to the infant. If the hearing screening test indicates hearing loss or if the infant was not successfully tested, the hospital must inform the infant's parent and attending physician and provide information concerning appropriate follow-up. The hospital also must refer an infant whose hearing test indicated hearing loss to an audiologist for a diagnostic evaluation. These requirements do not apply if the infant's parent submits a written objection to the test or the diagnostic evaluation for reasons of religion or personal conviction. The bill provides funding from general purpose revenues for payment of the hearing screening tests for infants who are ineligible for medical assistance or the health care program for low-income families known as badger care and for whom coverage of the hearing screening test is not provided under a disability insurance policy or a self-insured health plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*



**BILL**

1 (b) If a hearing screening test performed on an infant as specified in par. (a)  
2 indicates hearing loss or if the infant was not successfully tested, the hospital shall  
3 so notify the infant's parent, guardian or legal custodian and attending physician  
4 before discharge, if possible, or otherwise within 10 days after discharge. The  
5 hospital shall provide to the infant's parent, guardian or legal custodian information  
6 concerning the appropriate follow-up for a hearing screening test that indicated  
7 hearing loss or for an instance in which the infant was not successfully tested. If the  
8 infant's hearing <sup>screening</sup> test indicated hearing loss, the hospital shall refer the infant to an  
9 audiologist for a diagnostic evaluation.

10 (3) HEARING SCREENING TEST; FUNDING. From the appropriation under s. 20.435  
11 (5)(cr), the department shall provide funds in each fiscal year to pay for the provision,  
12 by hospitals, of hearing screening tests under sub. (2) (a) for infants who are  
13 ineligible under s. 49.46, 49.47 or 49.665 and for whom coverage of the hearing  
14 screening test is not provided under a disability insurance policy or a self-insured  
15 health plan.

16 (4) PARENTAL OBJECTION. The requirements under sub. (2) do not apply if the  
17 infant's parent, guardian or legal custodian submits a written statement to the  
18 hospital objecting to the hearing screening test or to the diagnostic evaluation for  
19 reasons of religion or personal conviction. The hospital shall place any such  
20 statement in the medical record of the infant.

**SECTION 4. Effective date.**

21  
22 (1) INFANT HEARING SCREENING TESTS. This act takes effect on July 1, 1999, or  
23 on the day after publication of the 1999–2001 biennial budget act, whichever is later.

(END)

D-NOTE



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2389/1dn

DAK.....

*emf*

To Representative Wasserman:

1. Because s. 16.47<sup>✓</sup>(2), stats., prohibits each house of the legislature from passing a bill that contains an appropriation of more than \$10,000, except for emergency appropriations bills, until the budget bill has passed both houses, I have created an effective date for this bill that is July 1, 1999, or the day after enactment of the budget bill, whichever is later. Okay?

2. Please note that the funding is to be provided only for infants who are not eligible for medical assistance or badger care (the benefits under badger care are identical to those under medical assistance, which covers hearing screening) and for whom coverage is not provided under a disability insurance policy or a self-insured health plan. Okay?

3. The Massachusetts act on which this bill is based refers to birthing centers, in addition to hospitals, as sites for performance of hearing screening tests; in particular, the act requires a birthing center that does not have the hearing screening test equipment or ability to perform the test to refer the infant to a hospital or birthing center approved by the department to perform the tests. In Wisconsin, birthing centers are not statutorily recognized. I do not know if there are any birthing centers that are not directly associated with hospitals in the state (there are none listed in the Madison telephone book yellow pages). In order to refer to birthing centers, I would need a definition of such a place. At this point, I thought it best to provide you with the draft, to allow you to review it and decide if you wanted to add this element.

If I can assist you further with this draft, please do not hesitate to call.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2389/1dn  
DAK:cmh:hmh

April 22, 1999

To Representative Wasserman:

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