LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 7284 **DATE PREPARED:** Feb 22, 2002
BILL NUMBER: SB 458 **BILL AMENDED:** Feb 21, 2002

SUBJECT: HIV Testing of Pregnant Women.

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FUNDS AFFECTED: X **GENERAL** **IMPACT:** State
DEDICATED
X **FEDERAL**

Summary of Legislation: (Amended) This bill requires that a pregnant woman be tested for HIV during pregnancy or at the time of delivery unless she refuses. The bill requires that a pregnant woman's refusal to consent to the test be documented in the woman's medical records. It requires a pregnant woman who refuses to consent to the test to acknowledge that she: (1) received the required counseling and information; (2) refused to consent to the test. It also specifies certain information regarding HIV testing, transmission, prevention, and treatment that must be provided to a pregnant woman. The bill further requires that information regarding the HIV testing status of a pregnant woman be included on the confidential part of the birth or stillbirth certificate. It requires the results of the tests to be confidential. The bill requires that pregnant women who meet the financial qualifications for Medicaid, the Children's Health Insurance Program, the AIDS Drug Assistance Program, the Health Insurance Assistance Program, and other health programs of the state are automatically approved for the services listed and may not be placed on waiting lists for the services. The bill also requires the State Department of Health to distribute written materials explaining treatment options for individuals who have a positive HIV test and to adopt rules for providing information to pregnant women about HIV. It requires the State Department of Health to provide forms for HIV tests. The bill further requires that hospitals are reimbursed by the state and private insurers for actual costs of performing HIV tests for pregnant women and that the total cost to the state must be less than $24,000. It repeals a provision concerning voluntary HIV testing for pregnant women and a provision containing an obsolete definition.

Effective Date: Upon passage; July 1, 2002.

Explanation of State Expenditures: *(Revised) Testing Requirement Impact on Medicaid Program and State Employee Health Insurance*: The fiscal impact to the state is estimated to be the following: (1) The annual impact for those women and children in the Medicaid Primary Care Case Management (PCCM) program and fee-for-service claims is estimated to be $120,300. (2) In addition, while there is no short-term impact to the state for individuals in the Medicaid Risk-Based Managed Care (RBMC) program, increased costs of about

$28,200 would likely be factored into higher capitation rates in the future. (3) There would also be additional annual costs to the health plans providing benefits to state employees estimated to be about $14,000 (The state would be responsible for 93.9% of any additional costs experienced by the traditional insurance plans or passed on to the state by the managed care plans).

Background: This bill requires each pregnant woman, with the approval of the woman, to be tested for HIV. The bill requires that a blood sample be taken from a woman at the time of delivery if there is no written evidence that the woman was tested for HIV during her pregnancy. It is estimated that in FY 2001, Medicaid paid for 36,572 deliveries (a decrease of about 8,600 from FY 2000). It is also assumed that 14% (5,100) of these women and newborns are enrolled in the Medicaid RBMC program for which the testing costs would be covered under a capitated rate. 63% of the individuals, however, receive Medicaid services under the PCCM system, which is a modified fee-for-service system. The remaining 23% were paid as routine fee-for-service claims with no patient management payment component. Therefore, Medicaid will be responsible for an estimated 31,470 HIV tests under a fee-for-service payment system. The state share of Medicaid is projected to be about 38%.

In FY 2001, Medicaid paid for a total of 9,821 HIV tests for women who received pregnancy-related services. There is no relationship between the HIV testing done and the birth claims that were processed during the same fiscal year. However, this information does indicate that screening in Indiana may not be done at the rates reported for the country as a whole. One national source estimates that 75% of pregnant women who are receiving prenatal care are offered HIV tests and about 80% of that group accept the test. The HIV testing statistics based on claims paid by the Indiana Medicaid Program indicate that the testing percentage may be lower than 30%. However, it should be noted that there may have been more screening performed on pregnant Medicaid recipients by providers or clinics that did not bill Medicaid. Additionally, any testing done on newborns or mothers that occurs within the context of the hospital delivery would fall within the hospital DRG payment rate. The extent of the confidential screening being performed outside the Medicaid Program is unknown as is the extent of testing performed within the hospital DRG payments.

It is assumed that the average cost of the initial HIV test is $14.56, with the state share being $5.54. If all of the fee-for-service claims representing 31,470 women or newborns are tested, and we assume that 9,821 of this group is already being tested, the annual incremental state share of the HIV test would be $119,935. If an individual tests positive on the initial test, the test will have to be administered a second time. It is estimated that 43 babies were born exposed to HIV in 1996 in Indiana. Using the percentage of Medicaid babies to total babies born, it is estimated that at least 24 Medicaid-eligible pregnant women or newborns would need to be tested a second time. The cost of the second test to the state would be about $133.00 (24 x $5.54). If the test is positive a second time, the Western Blot test is used to determine HIV-positive status. The cost of the Western Blot test is estimated to be $25.07 with the state share being approximately $9.53. The cost to the state to test the 24 estimated HIV-positive pregnant women or newborns is estimated to be $229.00 ($9.53 x 24). The total estimated state share of testing Medicaid-eligible pregnant women or the newborn babies under the fee-for-service claims payment system would be approximately $120,300. This estimate would include hospital-based testing paid outside the DRG payment.

About 14% of the Medicaid-eligible women and newborns are enrolled in the Risk-Based Managed Care program for which the prenatal testing costs would be covered under a capitated rate. While there is no short-term impact to the state for the individuals in the RBMC program, increased costs of about $28,200 would likely be factored into higher capitation rates in the future. This analysis assumes that no HIV testing is currently being done on this population (the existing cost is assumed to be included in the fee-for-service group). In practice some portion of the existing test expense may already be included in the existing capitated

rates.

Future shifts of PCCM and other fee-for-service patients to risk-based managed care as required in P.L. 291-2001 for the seven largest counties in the state would be expected to consider these costs in the negotiated capitated rates.

(Revised) Hospital-Based Testing: The bill requires that a blood sample is to be taken from the woman at the time of delivery if there is no written evidence that the woman was tested for HIV during her pregnancy unless she refuses consent. The Department of Health reports that this provision may result in duplicate testing since the mother's prenatal care chart may not be received by the hospital prior to the delivery for a variety of reasons. The extent to which this situation occurs is unknown. Current statute allows for the testing of newborns if a physician caring for the infant believes that it is medically necessary. The bill would require that any HIV testing done on a pregnant woman or an infant within the context of the delivery DRG must be paid in an amount equal to the hospital's cost of performing the test. This provision applies to Medicaid as well as private insurance. Under the Medicaid program and other insurance programs, hospitals are paid per admission based on the Diagnosis Related Group or DRG. These rates are based on average types and intensity of services. Medicaid rebases its DRG payment rate to hospitals every two years. Consequently, new requirements that change the mix or intensity of services to a defined group of patients will not be included in the average calculations that make up the basis of the DRG payment. The bill limits the amount of the testing that would have to be paid over the DRG rates to a total of $63,100 or $24,000 in state general funds. This limitation would be administratively burdensome. The extent of the testing that would actually occur within the hospital setting is unknown, and the Medicaid fiscal estimate discussed above is assumed to include this cost.

Potential Savings: Recent medical research has determined that administering the drug zidovudine (ZDV, formerly known as AZT) during pregnancy and childbirth could reduce by two-thirds the chance that an HIV-positive mother would give birth to an infected child. If the HIV-positive Medicaid-eligible women are treated during pregnancy, there could be a reduction in the number of Medicaid-eligible babies with HIV offsetting some of the expenditures for testing. The Health Care Financing Administration (HCFA) reported in 1998 that 90% of children and more than 70% of women with AIDS are covered by Medicaid. The average total lifetime charges for the care of children with HIV infection was estimated at $491,963 in the *Pediatric Infectious Disease Journal* (June 1997). This estimate was based on a child's median survival time of 120 months and the cost of both hospital-based and outpatient charges.

Impact on State Employee Health Plans: The initial costs to the state employee health plans from the testing required by this bill is estimated to be about $14,000 per year. These estimates are based on about 900 covered births on the state plan in CY 2000. The state currently pays 93.9% of the premiums for employee group health plans. Employee contributions comprise the remaining 6.1% of the premium. The current state ratio is higher than the CY 2001 average state share of 93.5% due to recent premium increases. This analysis assumes that no HIV testing is currently being done on this population.

(Revised) *Treatment provisions for Pregnant Women:* The bill also provides that pregnant women who test HIV positive and meet the financial eligibility qualifications shall be automatically approved and accepted into the Medicaid program, the Children's Health Insurance Program (CHIP), the AIDS Drug Assistance Program (ADAP), the Health Insurance Assistance Program, or any other health care program of the state. The amendment specifies that women qualifying under this provision may not be placed on a waiting list for services and that they remain eligible until they fail to meet the financial eligibility of the program or no longer test positive for HIV. It is unclear how this provision would affect the ongoing eligibility of

individuals with regard to the financial eligibility requirements they must meet after the pregnancy-related eligibility is terminated, or the age-related eligibility (as within the CHIP program). (Medicaid does not currently cover HIV positive individuals on the sole basis of the diagnosis.) Potentially expanded eligibility would be effective upon passage of the bill. The amendment also requires OMPP to seek a Medicaid waiver to provide for the expanded eligibility for HIV positive women. It is not known whether Medicaid could limit eligibility only to HIV positive women and receive federal reimbursement for those services and whether the Centers for Medicare and Medicaid Services (CMS) would approve a Medicaid HIV waiver that limits eligibility only to women. Medicaid waivers by definition, must demonstrate cost efficacy and neutrality. CMS has approved a few Medicaid HIV waivers for other states; the specific details are not known at this time. This provision could prove to have a larger fiscal impact than the testing components of the bill. The extent of the fiscal impact would require additional investigation and study.

Impact on State Department of Health: (Revised) The bill requires the State Department of Health to develop written materials that explain the treatment options available to an individual who has tested positive for HIV. The written materials are required to be distributed to physicians statewide. The cost of developing and distributing these materials can be absorbed within the existing budget. The bill also requires the Department to include certain information regarding HIV testing of the mother of the child on the birth certificate. (This information is kept within the Department of Health. It is not printed on the public copy of the birth certificate.) The Department estimates that an additional $10,000 will be needed to change the electronic birth certificate, reprint birth certificates, and provide training to local health departments. The bill will also require the Department to develop an HIV test history and assessment form for the medical record of the mother, the infant, and the hospital pediatrician. The bill also requires the Department to maintain a systemwide evaluation of prenatal HIV testing in the state. The administrative resources associated with these requirements is unknown at this time.

Explanation of State Revenues:

Explanation of Local Expenditures: Similar to the state, increased premiums and enrollment fees may result in additional costs to local governments and school corporations purchasing health benefits from insurance companies and HMOs for their employee health benefit plans. However, this may not necessarily imply additional budgetary outlays since employer responses to increased health benefit costs may include: (1) greater employee cost sharing in health benefits; (2) reduction or elimination of health benefits; (3) reduction in the size of the workforce eligible for health benefits; and (4) passing costs onto workers in the form of lower wage increases than would have been granted before.

Explanation of Local Revenues:

State Agencies Affected: All; Family and Social Services Administration; State Department of Health.

Local Agencies Affected: Local Governments and School Corporations; Local Health Departments.

Information Sources: Carroll Causeway, Indiana State Medical Association; State Department of Health; Institute of Medicine's report on Prenatal Testing for HIV; National Conference of State Legislatures, *HIV/AIDS Facts to Consider: 1999.*