

LEGISLATIVE BILL 950

Approved by the Governor April 10, 2000

Introduced by Byars, 30; Schimek, 27; Stuhr, 24; Suttle, 10; Thompson, 14;
Price, 26; Dw. Pedersen, 39; Bromm, 23; Engel, 17

AN ACT relating to children; to adopt the Infant Hearing Act; to provide for insurance and medicaid payments; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 11 of this act shall be known and may be cited as the Infant Hearing Act.

Sec. 2. (1) The Legislature finds that:

(a) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is required;

(b) Early detection of hearing loss in a child and early intervention and treatment before six months of age has been demonstrated to be highly effective in facilitating a child's language, communication, and educational development;

(c) Children of all ages can receive reliable and valid screening for hearing loss in a cost-effective manner; and

(d) Appropriate screening and identification of newborns and infants with hearing loss will facilitate early intervention and treatment in the critical time period for language development and may serve the public purposes of promoting the healthy development of children and reducing public expenditure for health care, special education, and related services.

(2) The purpose of the Infant Hearing Act is:

(a) To provide early detection of hearing loss in newborns at the birthing facility, or as soon after birth as possible for those children born outside of a birthing facility, to enable these children and their families and other caregivers to obtain needed multidisciplinary evaluation, treatment, and intervention services at the earliest opportunity and to prevent or mitigate the developmental delays and academic failures associated with late detection of hearing loss; and

(b) To provide the state with the information necessary to effectively plan, establish, and evaluate a comprehensive system for the identification of newborns and infants who have a hearing loss.

Sec. 3. For purposes of the Infant Hearing Act:

(1) Birth admission means the time after birth that the newborn remains in the hospital or other health care facility prior to discharge;

(2) Birthing facility means a hospital or other health care facility in this state which provides birthing and newborn care services;

(3) Confirmatory testing facility means a hospital or other health care facility in this state which provides followup hearing tests;

(4) Infant means a child from thirty days through twelve months old;

(5) Newborn means a child from birth through twenty-nine days old; and

(6) Parent means a natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

Sec. 4. The Legislature recognizes that it is necessary to track newborns and infants identified with a potential hearing loss or who have been evaluated and have been found to have a hearing loss for a period of time in order to render appropriate followup care. The Department of Health and Human Services shall, on or before December 1, 2000, determine and implement the most appropriate system for this state which is available to track newborns and infants identified with a hearing loss. It is the intent of the Legislature that the tracking system provide the department and Legislature with the information necessary to effectively plan and establish a comprehensive system of developmentally appropriate services for newborns and infants who have a potential hearing loss or who have been found to have a hearing loss and shall reduce the likelihood of associated disabling conditions for such newborns and infants.

Sec. 5. The Department of Health and Human Services shall apply for all available federal funding to implement the Infant Hearing Act.

Sec. 6. (1) Beginning December 1, 2000, and annually thereafter, every birthing facility shall report to the Department of Health and Human Services the number of:

(a) Newborns born;

(b) Newborns and infants recommended for a hearing screening test;

(c) Newborns who received a hearing screening test during birth

admission;

(d) Newborns who passed a hearing screening test during birth admission if administered;

(e) Newborns who did not pass a hearing screening test during birth admission if administered; and

(f) Newborns recommended for monitoring, intervention, and followup care.

(2) Beginning December 1, 2000, and annually thereafter, every confirmatory testing facility shall report to the Department of Health and Human Services the number of:

(a) Newborns and infants who return for a followup hearing test;

(b) Newborns and infants who do not have a hearing loss based upon the followup hearing test; and

(c) Newborns and infants who are shown to have a hearing loss based upon the followup hearing test.

Sec. 7. (1) Beginning January 1, 2001, every birthing facility shall educate the parents of newborns born in such facilities of the importance of receiving a hearing screening test and any necessary followup care. This educational information shall explain, in lay terms, the hearing screening test, the likelihood of the newborn having a hearing loss, followup procedures, and community resources, including referral for early intervention services under the Early Intervention Act. The educational information shall also include a description of the normal auditory, speech, and language developmental process in children. Education shall not be considered a substitute for the hearing screening test.

(2) If a newborn is not born in a birthing facility, the Department of Health and Human Services shall educate the parents of such newborns of the importance of receiving a hearing screening test and any necessary followup care. The department shall also give parents information to assist them in having the test performed within three months after the date of the child's birth.

Sec. 8. (1) The Department of Health and Human Services shall determine which birthing facilities are administering hearing screening tests to newborns and infants on a voluntary basis and the number of newborns and infants screened. The department shall report to the Legislature by January 1, 2002, and annually thereafter, the number of:

(a) Birthing facilities administering voluntary hearing screening tests during birth admission;

(b) Newborns screened as compared to the total number of newborns born in such facilities;

(c) Newborns who passed a hearing screening test during birth admission if administered;

(d) Newborns who did not pass a hearing screening test during birth admission if administered; and

(e) Newborns recommended for followup care.

(2) The department, in consultation with the State Department of Education, birthing facilities, and other providers, shall develop approved screening methods and protocol for statewide hearing screening tests of substantially all newborns and infants by December 1, 2002.

(3) Subject to available appropriations, the Department of Health and Human Services shall make the report described in this section available.

Sec. 9. (1) By December 1, 2003, each birthing facility shall include a hearing screening test as part of its standard of care for newborns and shall establish a mechanism for compliance review. By December 1, 2003, a hearing screening test shall be conducted on no fewer than ninety-five percent of the newborns born in this state.

(2) If the number of newborns receiving a hearing screening test does not equal or exceed ninety-five percent of the total number of newborns born in this state on or before December 1, 2003, or falls below ninety-five percent at any time thereafter, the Department of Health and Human Services shall immediately adopt and promulgate rules and regulations implementing a hearing screening program. The hearing screening program shall provide for a hearing screening test that every newborn born in this state shall undergo and shall provide that the hearing screening test be completed during birth admission or, if that is not possible, no later than three months after birth. Notwithstanding this section, it is the goal of this state to achieve a one-hundred-percent screening rate.

Sec. 10. The Department of Health and Human Services and the State Department of Education shall establish guidelines for when a referral shall be made for early intervention services under the Early Intervention Act. The guidelines shall include a request for an individual evaluation of a child suspected of being deaf or hard of hearing as defined in section 79-1118.01.

Sec. 11. The Department of Health and Human Services shall adopt and promulgate rules and regulations necessary to implement the Infant Hearing Act.

Sec. 12. (1) The Department of Health and Human Services Finance and Support shall provide payment for hearing screening tests for newborns and infants through the medical assistance program if the child is eligible for medical assistance as determined by state and federal law.

(2) Any contract for the provision of medical assistance negotiated with a managed care organization shall include payment for hearing screening tests for newborns and infants.

Sec. 13. (1) Notwithstanding section 44-3,131:

(a) Under a health insurance plan which provides coverage for hearing screening tests for newborns and infants, such coverage shall be subject to copayment, coinsurance, deductible, and dollar-limit provisions to the extent that other medical services covered by the health insurance plan are subject to such provisions; and

(b) This section applies to health insurance plans delivered, issued for delivery, or which become effective on or after the effective date of this act, and also applies to all renewals or changes which are effective on or after the effective date of this act.

(2) For purposes of this section, health insurance plan means a plan which includes dependent coverage for children which is delivered, issued for delivery, renewed, extended, or modified in this state. A health insurance plan includes any such group or individual sickness and accident insurance policy, health maintenance organization contract, subscriber contract, employee medical, surgical, or hospital care benefit plan, or self-funded employee benefit plan to the extent not preempted by federal law. Health insurance plan includes any policy, contract, or plan offered or administered by the state or its political subdivisions. Health insurance plan does not include policies providing coverage for a specified disease, accident-only coverage, hospital indemnity coverage, disability income coverage, medicare supplement coverage, long-term care coverage, or other limited-benefit coverage.

(3) The Department of Insurance shall adopt and promulgate rules and regulations necessary to implement this section.

Sec. 14. Since an emergency exists, this act takes effect when passed and approved according to law.