

SUBJECT: Post-mastectomy reconstructive surgery as a mandatory health benefit

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Merily Keller; Elizabeth Kozak; Leah McFadden; Steven Pisano; Janet Stokes, Texas Association of Health Underwriters

Against — Will Davis, Texas Insurance Association and Texas Legal Reserve Officials Association; David Pinkus, Small Business United

On — Tyrette Hamilton, Texas Department of Insurance

DIGEST: CSHB 262 would amend the Insurance Code to require health benefit plans that provide coverage for mastectomies to provide coverage for breast reconstruction. Breast reconstruction would mean surgical reconstruction of a breast to achieve or restore breast symmetry, and could be performed on either the breast subjected to the mastectomy surgery or the other breast.

Coverage for breast reconstruction could be subject to the same copayment or deductible applicable to the mastectomy. The plan could not offer financial incentives for patients to forego breast reconstruction or to waive reconstruction coverage.

The bill would take effect September 1, 1997, and would apply to plans issued, delivered or renewed on or after January 1, 1998.

SUPPORTERS SAY: CSHB 262 would help thousands of Texas women who endure the pain, trauma and disfiguration of breast cancer by making normal appearance possible after a mastectomy. It also would help reduce the number of women who die of breast cancer because they fear losing a breast.

Breast cancer affects approximately 11,500 Texas women annually, and studies show that fear of losing a breast is a leading reason why many

women do not participate in early breast cancer detection procedures, even though those procedures have been found to greatly reduce mortality from this disease.

Breast reconstruction helps prevent further health problems, such as back pain related to asymmetry, and can help in the physical healing of the surgical wound. It also dramatically assists in emotional recovery, which is critical to total healing and a woman's return to a normal and productive life. Health benefit plans that cover only the affected breast or that do not provide for reconstructive surgery at all are only covering part of the medical problem associated with breast cancer.

A breast reconstruction benefit would not drive up medical care costs. The use of those benefits would be predominately limited to women with breast cancer. Furthermore, reconstructive surgery usually takes place at the time of mastectomy, thereby containing hospital and surgical costs. Surgeons would not perform a higher number of "unnecessary" reconstructive surgeries because of this benefit, just as they do not perform a higher amount of any unnecessary services that are covered by a health benefit. The 13 other states that require this coverage have not experienced higher costs.

The Texas mandated benefits review panel has reviewed this proposal and found that patients who undergo reconstructive surgery report a higher quality of life. The panel concluded that further study was needed to determine whether costs would increase because of the benefit. Although the state has no authority to regulate self-insured plans, CSHB 262 is patterned after legislation pending in Congress that would require self-insured plans as well as insured plans and HMOs to offer reconstructive surgery benefits.

**OPPONENTS
SAY:**

Mandatory breast reconstruction benefits would increase the cost of health insurance, just as any mandated benefit would, and could thereby limit the availability of employer-sponsored health insurance or the access to insurance by individuals and families. Fostering an increase in unnecessary reconstructive surgeries could fuel a rise in overall health care costs as well.

Any proposed mandated benefit should first be thoroughly reviewed by the mandated benefits review panel established under the Insurance Code so that the combined impact of all mandates proposed this session can be projected and evaluated.

**OTHER
OPPONENTS
SAY:**

This mandate would not help everyone covered by insurance. It would only affect about 20 percent of the health insurance market; self-insured health benefit plans and Medicare benefits plans, which cover about 46 percent of the market, fall under federal regulation and do not have to conform to state mandates. Also, small business health plans would not be included in the definition of a health benefit plan under this act.

NOTES:

The committee substitute replaced the definition of “health benefit plan” in the original version with definitions now used to comply with new federal health benefit plan changes and other updates. It also added prohibitions against discouraging the use of breast reconstruction benefits through financial incentives or waivers.