SUBJECT: Minimum health benefit coverage for hospital care related to mastectomy

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

WITNESSES: For — Cindy Antolik, American Cancer Society; Marianne Antoniak, Komen Breast Cancer Foundation; Peggy Mason; Jane Parker

Against — Will Davis, Texas Life Insurance Association/Texas Legal Reserve Officials Association; Gary Tolman, American National Insurance Company

On — Tyrette Hamilton, Texas Department of Insurance

DIGEST: CSHB 349 would require health benefit plans that provide benefits for the treatment of breast cancer to include coverage for inpatient care for a minimum of 48 hours following a mastectomy and 24 hours following a lymph node dissection for the treatment of breast cancer. Health benefit plans would have to provide written notice to each enrollee under the plan regarding coverage required by the bill.

A health benefit plan would not be required to provide the minimum hours of coverage of inpatient care if the enrollee and the attending physician determined that a shorter period of inpatient care was appropriate.

The issuer of a health benefit plan could not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the plan; provide payments or rebates to enrollees to encourage the acceptance of less than minimum coverage; reduce or limit the amount paid to attending physicians, penalize physicians or provide financial incentives to physicians to provide care inconsistent with the requirements in the bill.

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

SUPPORTERS SAY:

CSHB 349 would ensure that women undergoing the physically and emotionally traumatic course of mastectomy and related surgery would receive adequate care and medical oversight, and not fall victim to overly zealous profit incentives of some managed care organizations and health benefit plans.

About one in every eight women is diagnosed with breast cancer each year. Mastectomies — full or partial removal of the breast — and lymph node dissections, which probe the lymph nodes for evidence of cancer spread, are considered major surgical procedures and require medical and nursing oversight to ensure adequate healing. These procedures also often result in disabling and disfiguring physical and muscular conditions that require women to make significant emotional adaptations and adjustments in daily living activities. CSHB 349 would place into law medically accepted minimum hospital stay standards that would provide necessary medical and recuperative care of patients with breast cancer.

Doctors who perform mastectomies and lymph node dissections are under pressure from some health benefit plans to reduce hospital stays. Over the past ten years, hospitalization for patients undergoing mastectomies has decreased significantly, from about four-to-six days to two-to-three days. Some women have even been required to undergo mastectomies and lymph node dissections on an outpatient basis, and received no post-surgical nursing or medical oversight once they were sent home.

CSHB 349 would not dictate medical practice nor place into statute provisions that are insufficiently flexible to meet changing medical standards. It would simply require health benefit plans to provide a minimum level of coverage and ensure that decisions to deviate from this standard were made by the doctor and the patient and not by the health benefit plan. Patients could stay in the hospital for a shorter length of time than the minimum standard if the doctor and the patient agreed a longer stay was unnecessary.

CSHB 349 would not increase costs or reduce benefits for most people. Most health benefit plans already provide at least as much coverage as required in the bill and would most likely have little incentive to reduce the coverage enrollees and insureds are now paying for. However, CSHB 349

would target plans that inappropriately pressure doctors to make risky or inadequate hospital treatment decisions or that fail to provide an acceptable minimum standard of coverage.

OPPONENTS SAY:

Mandatory lengths of stay for inhospital treatments infringe on medical decision making and practice trends by setting arbitrary standards for a specific medical condition and would probably increase the cost of health insurance. Also, CSHB 349 could even reduce coverage for some women because required minimum standards, once placed in law, often become maximum standards in the actual marketplace.

The delivery of health care continues to evolve, often at a rapid pace, with the advent of new technologies, medicines and other discoveries. Placing practice standards into law does not provide health benefit plans sufficient flexibility to modify coverage and risk to meet new treatment modalities.

Increased costs limit the availability of employer-sponsored health benefits and access to health services by individuals and families. Coverage mandates also may reduce the level of benefits now provided in most health benefit plans as insurers counter rising costs by reducing benefits for another disease.

This mandate would not help everyone covered by insurance and could push more employers to provide health benefits from self-insured plans, which are exempt from state regulation. CSHB 349 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 with state mandates.

NOTES:

The committee substitute changed the definition of “health benefit plan” to reflect the standard definition and format now used for federal and other requirements. It also expanded the prohibitions to issuers of health benefit plans to specifically prohibit certain actions or incentives.

Related legislation under consideration this session includes SB 217 by Zaffirini, which addresses coverage for post-mastectomy surgical reconstruction, and has passed both houses.