

- SUBJECT:** Health-benefit plan coverage for brain injuries or neurological disease
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 7 ayes — Eiland, Averitt, Burnam, G. Lewis, J. Moreno, Olivo, Thompson
1 nay — Seaman
1 present, not voting — Smithee
- WITNESSES:** For — Mark Ashley, Centre for Neuro Skills; Judith Balbu McConn, Our Children’s House at Baylor; Mary Carlile, M.D., Baylor Institute for Rehabilitation; Calvin Colbert, Dallas Brain Injury Association; Kevan Corsor, University of Texas Medical Branch-Galveston; Allene Creacy; Karen Crockett; Elizabeth Deluca; John Erhardt, M.D.; Donna Fruge; Richard L. Fulbright; Sara Hunt Harper, R.N.; Paulette Keeney, Recovery Awareness Foundation; Travis Kilpack; Lynda Kirk; Jeffery W. Latham, Texas Traumatic Brain Injury Advisory Committee; Ken Locklear; Frank McDonald, M.D., Our Children’s House at Baylor; James S. Misko, Brown-Karhan Rehabilitation Center; William D. Scarbrough, Baylor University Medical Center; Charlotte Stelly-Seitz, M.D.; Beth Temperley; Kathy Thomas; Robyn Thrower
Against — Will D. Davis, Texas Association of Life and Health Insurers
- DIGEST:** CSHB 1676 would amend the Insurance Code by prohibiting a health-benefit plan from excluding coverage for treatment for certain brain injuries and neurological diseases, including:
- ! cognitive rehabilitation therapy and cognitive communication therapy;
 - ! neurocognitive therapy and rehabilitation;
 - ! neurobehavioral, neurophysiological, neuropsychological, and psychophysiological testing or treatment;
 - ! neurofeedback therapy and remediation;
 - ! post-acute transition services; or
 - ! community reintegration services necessary as a result of a brain injury or neurological disease.

The required health-benefit plan coverage related to brain injury or neurological disease could be subject to deductibles, copayments, or annual maximum payment limits that were consistent with deductibles, copayments, and annual or maximum payment limits applicable to other similar coverage under the plan. The insurance commissioner would have to adopt rules as necessary to implement these provisions.

The commissioner by rule would have to require the issuer of a health-benefit plan to provide adequate training to people responsible for precertification, preauthorization of coverage, or utilization management under the plan to prevent wrongful denial of required health-benefit plan coverage relating to brain injury or neurological disease in order to avoid confusion of medical benefits with mental health benefits.

CSHB 1676 would apply only to health-benefit plans offered by:

- ! an insurance company;
- ! a group hospital service corporation operating under Chapter 20 of the Insurance Code;
- ! a fraternal benefit society operating under Chapter 10;
- ! a stipulated premium insurance company operating under Chapter 22;
- ! a reciprocal exchange operating under Chapter 19;
- ! a health maintenance organization operating under Chapter 20A;
- ! a multiple-employer welfare arrangement that holds a certificate of authority; or
- ! an approved nonprofit health corporation that holds a certificate of authority under Article 21.52F.

The bill would apply to a small-employer health-benefit plan written under Chapter 26. It would not apply to a plan that provides coverage:

- ! only for benefits for a specified disease or another limited benefit;
- ! only for accidental death or dismemberment;
- ! for wages or payments in lieu of wages for a period during which an employee was absent from work because of sickness or injury;
- ! as a supplement to a liability insurance policy;
- ! for credit insurance;
- ! only for dental or vision care;

- ! only for hospital expenses; or
- ! only for indemnity for hospital confinement.

It also would not apply to a Medicare supplemental policy, a workers' compensation insurance policy, medical payment insurance coverage provided under a motor-vehicle insurance policy, or a long-term care insurance policy, including a nursing home fixed-indemnity policy, unless the commissioner found that the policy provided coverage so comprehensive that the policy was a health-benefit plan as described by the bill.

CSHB 1676 would take effect September 1, 2001, and would apply only to a health-benefit plan delivered, issued, or renewed on or after January 1, 2002.

**SUPPORTERS
SAY:**

About 6,500 Texans are permanently disabled by traumatic brain injuries each year. An additional number of people receive injuries that fall under the more general heading of "acquired brain injury." Extraordinary life-saving techniques and rehabilitation services allow many people with brain injuries to live meaningful lives, although the survivors of such injuries usually face a long process of rehabilitation. These people may not be covered, however, by certain health-benefit plans. In some cases, insurers exclude coverage of rehabilitation services as part of a health-benefit plan on the basis that these conditions are mental rather than physical illnesses.

Expanding health-benefit plans for brain injuries and neurological diseases could benefit a large number of Texans and their families and caregivers. CSHB 1676 would prohibit health-benefit plans from excluding coverage for people who survive certain brain injuries and neurological diseases. These injuries and diseases are physical rather than mental illnesses, and insurance carriers should offer benefits for them accordingly.

**OPPONENTS
SAY:**

CSHB 1676 has technical problems that could exclude many of the people it intends to protect. For example, Lloyd's plans would not be among the plans that the bill would require to offer this health coverage. Also, the bill has an exclusion that could apply to limited benefits, such as accident policies. By not offering coverage for brain injuries or neurological diseases in accident policies, the bill actually could result in reducing existing benefits. CSHB 1676 also would omit coinsurance as a required coverage, which again could restrict coverage for a sizeable number of patients.

The terms “precertification,” “preauthorization,” and “utilization management” in the portion of the bill regarding training for certain personnel are not defined in the Insurance Code. This could lead to confusion in implementing the bill.

OTHER
OPPONENTS
SAY:

As tragic as brain injuries and neurological diseases are, the Legislature should not mandate health benefits in any form. Mandated coverage increases the cost and ultimately reduces the accessibility of health insurance

NOTES:

The author plans to introduce a floor amendment that would remove the exclusion of Lloyd’s plans, accident policies, and coinsurance and would clarify terms in the section of the bill requiring training for certain personnel. The proposed floor amendment also would allow the Sunset Advisory Commission to review these health-benefit plans for specific coverage related to brain injuries and neurological diseases on or before September 1, 2006.

The committee substitute modified the filed version of the bill to prohibit a health-benefit plan from excluding coverage for patients suffering from brain injuries or neurological diseases, rather than only from traumatic brain injury. The substitute would expand the treatment and testing services that would have to be covered. It also would vary from the original bill by providing that coverage for brain injuries or neurological diseases could be subject to deductibles, copayments, or annual or maximum benefit limits.