HOUSE RESEARCH ORGANIZATION bill analysis | 5/8/2003 | HB 3022 Taylor (CSHB 3022 by Taylor)

SUBJECT: Coinsurance rates for preferred provider organizations

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Smithee, Seaman, B. Keffer, Taylor, Van Arsdale

0 nays

4 absent — Eiland, Bonnen, Gallego, Thompson

WITNESSES: For — Eric Glenn, Humana, Inc.; Mike Pollard, Texas Association of Life and Health Insurers

Against — Lisa McGiffert, Consumers Union

On — Bill Bingham, Texas Department of Insurance

BACKGROUND: In 1997, the 75th Legislature enacted SB 383 by Cain, which authorized preferred provider organizations (PPOs) and established requirements for providers and continuity of care. PPOs are health insurance plans that offer more favorable coverage to insureds who use the services of "preferred providers," physicians, hospitals, and other providers who contract with the plan. Among other measures, SB 383 required PPOs to ensure that both preferred provider benefits and basic-level benefits are reasonably available to insureds. It also required the insurance commissioner to adopt rules to ensure reasonable access to preferred provider and basic-level benefits.

DIGEST: CSHB 3022 would specify that the requirement for PPOs to ensure that both preferred provider benefits and basic-level benefits are reasonably available to insureds could not be construed to limit the level of reimbursement or level of coverage, including deductibles, copayments, coinsurance, or other forms of cost sharing. It would delete the requirement that the insurance commissioner adopt rules to ensure reasonable access to basic-level benefits.

The bill would take effect September 1, 2003. It would apply only to an insurance policy, certificate, or contract delivered, issued for delivery, or renewed on or after January 1, 2004.

SUPPORTERS SAY:

CSHB 3022 would allow insurers to offer less expensive plans to small businesses. Texas' small businesses need a less expensive way to offer health insurance to their employees. According to the comptroller's e-Texas report, *Limited Government, Unlimited Opportunity*, many Texans working for small employers do not have health insurance, accounting for a significant portion of the state's uninsured workers. A Texas Department of Insurance (TDI) survey in 2002 found that almost 70 percent of responding small businesses cited cost as the main reason for not offering health insurance coverage.

Current law and TDI rules set a floor for the amount that insurers must pick up for health care. Insurers must pay at least 50 percent of coinsurance, and there cannot be more than a 30 percent differential between in-network and out-of-network care. In effect, insurers must pay for at least 80 percent of in-network care, which also sets a floor for how inexpensive insurers can make their plans for small businesses. Instead of requiring certain levels of coinsurance, the state should give small businesses the opportunity to buy some health coverage for their employees. Texas' small business employees would rather have the option of turning down a plan that required too much coinsurance than have no access to a plan at all.

OPPONENTS SAY:

CSHB 3022 could result in diminishing employer-sponsored health care for all Texans. The bill would allow insurers to offer whatever levels of coinsurance they wanted, even as low as 5 percent, leaving the employee to pick up 95 percent of the cost if the employee needed to go out of the network to obtain services. The bill's effect would not be confined to small businesses that otherwise could not afford to offer insurance. Large employers facing slow growth could cut similar deals with their insurers, leaving patients unprotected.

It is important to protect enrollees by creating a floor on the amount of coinsurance an insurer can require for out-of-network services because the fees are higher than for in-network. In-network fees are based on negotiated charges, while out-of-network fees are based on the usual and customary rates that are higher. The enrollee meanwhile has to pay the remainder based on the billed charges, usually the highest amount. If an insurer pays half the usual and customary rate, the enrollee must pay the remainder of the billed charges, which can be significant.

If insurers make it too expensive for enrollees to obtain services outside the network and do not have to maintain an adequate network, patients' health will be threatened. Health maintenance organizations may require payments that discourage seeing providers outside the organization, but they also are subject to stringent review by TDI to ensure that patients can obtain the services they need within the network.

There is no guarantee that CSHB 3022 would lower premiums for small businesses or for any other purchaser of health insurance, but it is likely that the bill could make it too expensive for enrollees to obtain health services. Texas should not trade patient access for insurance company profits. PPOs already have mechanisms in place to encourage enrollees to stay within the network, for which the insurer has negotiated a better rate.

OTHER OPPONENTS SAY:

Instead of giving insurers carte blanche on coinsurance rates, the state could offer a waiver of certain plans. Within the arena of Medicare supplement policies, Texas allows insurers to write plans that do not comply with all regulations as long as they offer innovative and new services. The state could establish a way for insurers to obtain a waiver from the coinsurance rules or from other restrictions and mandates on plans written for certain groups, such as for small businesses. This would ensure consumers protection while allowing insurers to make special plans for special cases. Also, this approach would preserve TDI's regulatory authority and oversight.

NOTES:

The committee substitute changed the filed version of HB 3022 to conform to the Texas Legislative Council format.