

- SUBJECT:** Health benefit plan coverage for amino acid-based elemental formulas
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 7 ayes — Smithee, Martinez Fischer, Deshotel, Hancock, Isett, Taylor, Thompson
- 0 nays
- 2 absent — Eiland, Hunter
- WITNESSES:** For — Kendra Green Dias; (*Registered, but did not testify:* Noelia Flores, LaFe Policy Research and Education Center; Carrie Kroll, Texas Pediatric Society; Justin Marlin, Texans Care for Children; Morgan Sanders, March of Dimes)
- Against — Jennifer Ahrens, Texas Association of Life and Health Insurers; (*Registered, but did not testify:* Kandice Sanaie, Texas Association of Business)
- On — Jared Wolfe, Texas Association of Health Plans
- BACKGROUND:** Some babies are born with disorders that cause them to be allergic or have other immune responses to milk and soy protein. In extreme cases, these infants cannot digest milk or standard formulas and only can digest amino acid-based elemental formulas composed of man-made synthetic amino acids.
- DIGEST:** CSHB 2000 would require certain health benefit plans to provide medically necessary coverage for amino acid-based elemental formulas used for the diagnosis and treatment of certain food protein allergies, other severe immune responses to foods, and impaired absorption of nutrients caused by disorders affecting the gastrointestinal tract. The coverage provided would have to be at least as favorable as the plan's drug coverage. Any medically necessary service associated with administering the formula would have to be covered as well.
- The health benefit plans to which the coverage requirement for amino acid-based elemental formulas would apply would include:

- health benefit plans offered by various health benefit plan issuers that provided benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness;
- basic coverage plans provided to state employees;
- basic plans provided to retired public school employees;
- primary care coverage plans provided to active school employees; and
- basic coverage provided to Texas A&M University and University of Texas System employees.

The coverage requirement would not apply to certain secondary or incidental coverages or limited benefit plans.

A health benefit plan issuer's utilization review agent could review the medical necessity of the use of an amino acid-based elemental formula for the treatment of a plan enrollee.

The bill would take effect September 1, 2009, and would apply only to health benefit plans issued or renewed on or after January 1, 2010.

**SUPPORTERS
SAY:**

CSHB 2000 would require certain health benefit plans to cover medically necessary amino acid-based formulas and the administration of these formulas to enhance the health of infants and toddlers. Some children are born with life-threatening allergies and other immune disorders that could prohibit them from absorbing the nutrients they need to gain weight and sustain brain development. Amino acid-based formulas are the only way these children can absorb the proper nutrients to grow and develop normally.

Although these formulas are medically necessary for certain infants, most insurers refuse to pay for them or only will pay for them if they are administered at a health facility through a feeding tube in the infant's stomach. The extreme cost of this formula, over \$5,000 per year, is over 10 percent of the Texas median household income. This cost burden on a family may be increased by another \$20,000 per year if the infant requires a feeding tube to administer the formula and insurance does not cover this benefit. While this cost can be crippling to families, it would be insignificant when spread over an insurer's risk pool.

CSHB 2000 would relieve the cost burden on the small number of families to which the coverage requirement for amino acid-based formulas would

apply. Only about 200 Texas infants have milk allergies severe enough to require amino acid-based elemental formulas. Among children requiring this special formula, only about 80 percent require the formula by ages 18 to 24 months. This relatively short-term cost for such a small population would not drive up health insurance premiums. In fact, making sure that these children had proper nutrition likely would reduce long-term coverage costs for them, because they could require less treatment for illnesses or other complications.

Coverage of amino acid-based formulas could not be used by other parties to justify mandated coverage for other nutritional supplements. While the Food and Drug Administration does not classify these formulas as a medication, they still are medically necessary for infants that could become severely ill or die without them. The medical necessity is the basis for the proposed coverage requirement, not the status of these formulas as nutritional supplements. Despite this fact, some insurers have taken the nonsensical stance that they will pay more for costly feeding tube administration of these formulas in emergency rooms, yet they will not pay the stand-alone cost of the formula if the child was able to drink it.

OPPONENTS
SAY:

CSHB 2000 would impose yet another mandate on health benefit plans, further increasing health costs to individuals and small businesses. If providing coverage for amino-acid based formulas would save health carriers money, they already would have implemented it. Even if this mandate only cost consumers and employers slightly more per year, these cost increases could become a burden when combined with the costs of the many other health insurance mandates already in place. In addition, amino-acid based formulas are nutritional supplements, not prescribed drugs. Others could use a mandate for coverage as justification to pursue mandated coverage of other nutritional supplements.

NOTES:

The companion bill, SB 2205 by Van de Putte, has been referred to Senate State Affairs Committee and was referred to subcommittee on April 6.