

- SUBJECT:** Health benefit plan coverage for prosthetic and orthotic devices
- COMMITTEE:** Insurance — favorable, without amendment
- VOTE:** 9 ayes — Smithee, Martinez Fischer, Deshotel, Eiland, Hancock, Hunter, Isett, Taylor, Thompson
- 0 nays
- WITNESSES:** For — Kenneth Bean, Pediatric Prosthetics Inc.; Frieda Borth, Round Rock Amputee Support Group, Orthotic Prosthetic Technologies; Jayne Brayton; Rodger Dalston; Shelly Dangerfield; Michael Durbin; Fred Esman; Albert Garcia; Glenn Leadford; Marcial Luevano; Randall Mecca; Ruth Morris, Advanced Arm Dynamics; Mona Patel, for Mr. and Mrs. Frank Bosquez, parents of amputee Seth Bosquez; James Perrone, Hanger Orthopedic Group, Inc.; Lawrence Silva; Leslie Tramer, for Micka Knight; Mary Uherek; David Walker; (*Registered, but did not testify*: Chase Bearden, Coalition of Texans with Disabilities; Miryam Bujanda, Methodist Healthcare Ministries; Alison Little, Texans Care for Children; Patrick Reinhart, The San Antonio Orthopaedic Group, LLP)
- Against — Jennifer Ahrens, Texas Association of Life and Health Insurers; Kandice Sanaie, Texas Association of Business
- On — Jared Wolfe, Texas Association of Health Plans; (*Registered, but did not testify*: Dianne Longley, Texas Department of Insurance)
- BACKGROUND:** The state and federal government may require health plans to provide benefits for certain conditions and treatments or access to certain types of practitioners. Such requirements commonly are called mandates. Consumer choice plans may exclude certain state-mandated benefits.
- In Texas, small employer group health benefit plans are those providing coverage to firms with two to 50 full-time employees.
- A health group cooperative is composed of 10 or more employers that join together to purchase health coverage for their employees. A health plan provided through a health group cooperative is considered a single large employer health plan for the purposes of issuing coverage and price rating.

Health group cooperatives are not subject to state-mandated health benefits.

Political subdivisions such as counties, municipalities, and school districts may provide health and accident coverage through contributions to a risk pool. This type of coverage is not considered an insurance plan.

DIGEST:

HB 806 would define prosthetic devices as devices that replace, wholly or partly, an arm or a leg. Orthotic devices would include custom-made or custom-fitted medical devices used to correct a deformity, improve function, or relieve symptoms of a disease.

HB 806 would require health benefit plan coverage equivalent to that provided by the federal Medicare program for prosthetic devices, orthotic devices, and professional services related to the fitting and use of these devices by the following types of health benefit plans:

- small employer group health benefit plans;
- health group cooperative coverage;
- health and accident coverage provided through risk pools for employees of political subdivisions;
- the basic coverage plan provided to state employees;
- the basic plan provided to retired public school employees;
- the primary care coverage plan provided to Texas school employees; and
- the basic coverage provided to employees of the Texas A&M University and University of Texas systems.

The repair and replacement of these devices also would be covered, except for misuse or loss.

Coverage would include the most appropriate device model to meet the enrollee's needs as determined by the treating physician or podiatrist and prosthetist or orthotist. The coverage could be subject to annual deductibles, copayments, and coinsurance, and preauthorization could be required, consistent with other plan coverage. Coverage would not be subject to annual dollar limits.

If the benefits were provided through a managed care plan, coverage could be limited to the devices and services of providers and vendors. Out-of-network services would have to be comparable to in-network services.

Covered benefits could be provided by a pharmacy that had Medicare- or Medicaid-qualified employees. Health benefit plans could reimburse pharmacies for providing orthotic services.

HB 806 would take effect September 1, 2009 and would apply only to health benefit plans delivered, issued, or renewed on or after January 1, 2010.

**SUPPORTERS
SAY:**

HB 806 would improve the quality of life for individuals who need prosthetic and orthotic devices. It also would serve the collective good of Texas by helping these Texans continue their jobs and keeping state medical assistance program expenditures low.

Medicare recipients already receive the level of coverage for prosthetic and orthotic devices that would be required by HB 806, demonstrating the federal government's acknowledgement of the importance of providing this coverage. In addition, more than ten states currently mandate prostheses coverage, and other states are considering similar legislation.

The cost of prosthetic and orthotic devices is high, yet many individuals' plans provide limited or no related coverage. Faced with this, many amputees have had to forego prostheses that could have improved dramatically their independence, ability to work, and quality of life. Others have paid thousands of dollars out-of-pocket to obtain a prosthetic device, but drained retirement savings or went significantly into debt in the process.

Many individuals dealing with inadequate coverage for prosthetic and orthotic devices become eligible for Medicaid or other state programs that provide benefits based on income eligibility. For example, in 2007, the Texas Department of Assistive and Rehabilitative Services (DARS) spent \$6.1 million on devices for lower-income individuals, and this expenditure has increased significantly each year. Ultimately, Texas would save millions of dollars if more individuals received adequate prosthetic and orthotic benefits.

While some argue that HB 806 would impose a health insurance mandate that would increase costs for health plan enrollees and small employers, various state commissions have estimated that a prosthetic and orthotic coverage mandate would cost only an additional 12-to-38 cents per month per plan enrollee. The amount that amputees could gain in quality of life

and productivity would be well worth the \$5-per-year increase. In addition, these cost estimates do not account for state offset costs.

HB 806 appropriately would not apply the prosthetic and orthotic device coverage requirement to consumer choice plans, because these plans were designed to provide consumers an option free of certain state-mandated coverage requirements.

OPPONENTS
SAY:

HB 806 would impose yet another mandate on health benefit plans, further increasing health costs to individuals and small businesses. Even if the mandate cost consumers and employers less than \$5 per year, these amounts could become a burden when combined with the costs of the many other health insurance mandates.

In tight economic times, many employers already must decide how to cut overhead in order to stay in business. Higher health care costs would increase the burden on small employers, who may be forced to lay off employees or cease or decrease existing health coverage. In the aggregate, these legislative mandates contribute significantly to the cost of health coverage. It would be better that health costs stay low even if it means a narrow group of individuals did not receive coverage.

OTHER
OPPONENTS
SAY:

HB 806 would provide a very meaningful benefit to many health consumers, but the bill should include other types of health plans, such as consumer choice plans, in the requirement to cover prosthetic and orthotic devices.

Because consumer choice plans still would be permitted to exclude coverage for these prosthetic and orthotic devices, people could opt for these plans instead. As healthy consumers purchase consumer choice plans, the cost of plans that include all state-mandated benefits could rise significantly, as those plans would cover a larger proportion of people with greater health risks. This could be avoided if more parity existed between the types of coverage required by all health plans.

NOTES:

SB 26 by Zaffirini and HB 844 by Martinez are similar to HB 806, except that they would require consumer choice plans to provide prosthetic and orthotic coverage and would not require that plans cover repair and replacement except for loss or misuse. SB 26 has been referred to the

Senate State Affairs, and HB 844 was heard and left pending by the House Insurance Committee on March 10.