SUBJECT: Requiring certain pharmacy benefits for STAR Kids program enrollees

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Coleman

SENATE VOTE: On final passage, May 2 — 30-1 (Schwertner)

WITNESSES: *On House companion bill, HB 3685:*
For — Hannah Mehta, Protect TX Fragile Kids; (*Registered, but did not testify:* Jamaal Smith, City of Houston Mayor's Office; Chase Bearden, Coalition of Texans with Disabilities; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Lee Johnson, Texas Council of Community Centers; Bradford Shields, Texas Federation of Drug Stores; Michelle Romero, Texas Medical Association; Mackenna Wehmeyer and Michael Wright, Texas Pharmacy Business Council)

Against — None

BACKGROUND: Government Code sec. 533.00253 establishes the STAR Kids Medicaid Managed Care Program, which is tailored to provide Medicaid benefits to people with disabilities who are 20 years old and younger.

Concerned parties have noted that medically vulnerable children enrolled in the STAR Kids Medicaid Managed Care Program often are denied access to drugs in the central drug formulary or made to go through burdensome extra steps to receive needed medications.

DIGEST: SB 1096 would require the Health and Human Services Commission (HHSC) to conduct a utilization review on children enrolled in the STAR Kids managed care program and would impose certain requirements and restrictions on the outpatient pharmacy benefits plans required of health management organizations and pharmacy benefit managers.

Utilization review. The bill would require HHSC to conduct a utilization review on a sample of cases for children enrolled in the STAR Kids managed care program to ensure that all imposed clinical prior authorizations were based on publicly available clinical criteria and were not being used to negatively impact a recipient's access to care.

Outpatient pharmacy benefits plan. Under an outpatient pharmacy benefit plan developed, implemented, or maintained by a managed care organization (MCO), the MCO or a pharmacy benefit manager could not require a prior authorization for or impose any other barriers to a drug prescribed to a child enrolled in the STAR Kids managed care program for a particular disease or treatment that was on the vendor drug program formulary. It also would prohibit requiring additional prior authorization for a drug included in the preferred drug list adopted by HHSC. These provisions would not apply in regard to a clinical prior authorization or a prior authorization imposed by HHSC to minimize the opportunity for waste, fraud, or abuse.

The MCO or pharmacy benefit manager would have to provide for continued access to a drug prescribed to a child enrolled in the STAR Kids managed care program, regardless of whether the drug was on the vendor drug program formulary or, if applicable on or after August 31, 2023, the MCO's formulary.

The organization or manager could not use a protocol that required a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than as recommended by the child's physician before the MCO provided coverage for the recommended drug.

The organization or manager would have to pay liquidated damages to HHSC for each failure to comply with these provisions in an amount that was a reasonable forecast of the damages caused by the noncompliance.

Waivers and authorization. If a state agency determined that a waiver or authorization from a federal agency was necessary to implement a provision of the bill, the agency would have to request the appropriate waiver or authorization and could delay implementation until the waiver or authorization was granted.

Appropriation. HHSC would have to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate such funds, HHSC could choose to implement a provision of the bill using other appropriations available for that purpose.

The bill would take effect September 1, 2019, and would apply only to a contract entered into or renewed on or after the bill's effective date.

NOTES:

According to the Legislative Budget Board, although the fiscal implications of the bill could not be determined at this time, the bill would have an anticipated cost.