BILL ANALYSIS

Senate Research Center
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S.B. 1283
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas Medicaid beneficiaries currently have access to life-saving drugs called antiretrovirals immediately following the diagnosis of human immunodeficiency virus, known as HIV. Providing a newly diagnosed patient with antiretrovirals works to lower the patient's viral load and greatly diminishes the probability of viral transmission. Although this is current procedure, this immediate access is not protected in statute.

S.B. 1283 grants a protected class status to antiretrovirals. This prevents the need for prior authorization or step therapy, a process that requires a patient to experiment with lower cost drugs and fail before accessing higher cost medications. A protected class status ensures efficiencies for health care providers who assist patients in accessing the best medication as soon as possible and works to combat the spread of HIV.

The goal is to match the protections at the state level to those provided in federal statute. Texas rules currently "assume" these medications are protected. With attempts to change the Texas Vendor Drug Program, it is important to place this practice into statute. A failure to provide protections for antiretroviral medication could lead to an increase in HIV rates in Texas.

As proposed, S.B. 1283 amends current law relating to the availability under Medicaid of certain drugs used to treat human immunodeficiency virus and prevent acquired immune deficiency syndrome.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.073, Government Code, by amending Subsection (a) and adding Subsection (j), as follows:

> (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), in the rules and standards governing the Medicaid vendor drug program and the child health plan program, to require prior authorization for the reimbursement of a drug that is not included in the appropriate preferred drug list adopted under Section 531.072 (Preferred Drug Lists), except for any drug exempted from prior authorization requirements by federal law and except as provided by Subsection (j).
>
> (j) Prohibits the executive commissioner, in the rules and standards governing the Medicaid vendor drug program, from requiring a clinical, nonpreferred, or other prior authorization for an antiretroviral drug, or a step therapy or other protocol, that could restrict or delay the dispensing of the drug. Defines "antiretroviral drug."

SECTION 2. Amends Section 533.005(a). Government Code, as follows:

(a) Requires a contract between a managed care organization and HHSC for the organization to provide health care services to recipients to contain:

(1)–(22) makes no changes to these subdivisions;

(23) subject to Subsection (a-1), a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A)-(C) makes no changes to these paragraphs;

(C-1) that does not require a clinical, nonpreferred, or other prior authorization for an antiretroviral drug, as defined by Section 531.073 (Prior Authorization for Certain Prescription Drugs), or a step therapy or other protocol, that could restrict or delay the dispensing of the drug; and

(D)-(J) makes no changes to these paragraphs; and

(K) makes a nonsubstantive change to this paragraph.

(24) makes no changes to this subdivision;

(25) a requirement that the managed care organization not implement significant, nonnegotiated, across-the-board provider reimbursement rate reductions unless:

(A) subject to Subsection (a-3), the organization has the prior approval of HHSC to make the reductions, rather than make the reduction; or

(B) makes no changes to this paragraph; and

(26) makes no changes to this subdivision.

SECTION 3. Makes application of Section 533.005 (Required Contract Provisions), Government Code, as added by this Act, prospective.

SECTION 4. Requires the agency affected by a provision of this Act, if before implementing the provision a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing the provision until the waiver or authorization is granted.

SECTION 5. Effective date: September 1, 2019.