BILL ANALYSIS

Senate Research Center
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S.B. 2051
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A serious mental illness (SMI) is defined as a diagnosable mental, behavioral, or emotional disorder that causes serious function impairment that substantially interferes with or limits one or more major life activities. Well-managed medication reduces the symptoms of SMI and allows individuals to focus on recovery, which improves quality of life and reduces costs of care.

Currently, prior authorization (PA) requirements designed to control costs actually diminish access to medications and deter adherence. These requirements may include administrative impediments that discourage clinicians from prescribing certain medications. Along with this, step therapy provisions also provide a barrier which require the cheapest drug to be prescribed to a patient first, rather than the medicine originally prescribed by the doctor. Due to the nature of SMI, adherence to medication is a significant challenge. As a result, individuals with SMI that incur access challenges face an increased likelihood of adverse events, including ER visits and hospitalizations. These adverse events result in overwhelming costs to human lives and to the healthcare delivery system.

S.B. 2051 would streamline the PA process in Medicaid by allowing providers to meet PA criteria for antipsychotics for treatment of SMI by documents in the medical record treatment failure, contraindication, or allergic reactions. It would also discontinue fail first practices in commercial plans by statutorily prohibiting plans from requiring SMI patients to either fail to successfully respond to a different drug or prove a history of failure of a different drug. By making these changes, this bill can improve health outcomes, significant savings to the health care system, and improve quality of life.

As proposed, S.B. 2051 amends current law relating to health benefit plan coverage of prescription drugs for serious mental illnesses.

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 Chapter 1369, Insurance Code, by adding Subchapter E-2, as follows:

SUBCHAPTER E-2. PRESCRIPTION DRUG COVERAGE FOR SERIOUS MENTAL ILLNESSES

Sec. 1369.221. DEFINITION. Defines "serious mental illness."

Sec. 1369.222. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group contract or similar coverage document that is issued by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842 (Group Hospital Service Corporations);

(3) a health maintenance organization operating under Chapter 843 (Health Maintenance Organizations);

(4) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844 (Certification of Certain Nonprofit Health Corporations);

(5) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846 (Multiple Employer Welfare Arrangements);

(6) a stipulated premium company operating under Chapter 884 (Stipulated Premium Insurance Companies);

(7) a fraternal benefit society operating under Chapter 885 (Fraternal Benefit Societies);

(8) a Lloyd's plan operating under Chapter 941 (Lloyd's Plan); or

(9) a reciprocal exchange operating under Chapter 942 (Reciprocal and Interinsurance Exchanges).

(b) Provides that, notwithstanding any other law, this subchapter applies to:

(1) a small employer health benefit plan subject to Chapter 1501 (Health Insurance Portability and Availability Act), including coverage provided through a health group cooperative under Subchapter B (Coalitions and Cooperatives) of that chapter;

(2) a standard health benefit plan issued under Chapter 1507 (Consumer Choice of Benefits Plans);

(3) a basic coverage plan under Chapter 1551 (Texas Employees Group Benefits Act);

(4) a basic plan under Chapter 1575 (Texas Public School Employees Group Benefits Program);

(5) a primary care coverage plan under Chapter 1579 (Texas School Employees Uniform Group Health Coverage);

(6) a plan providing basic coverage under Chapter 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System);

(7) health benefits provided by or through a church benefits board under Subchapter I (Church Benefits Boards), Chapter 22 (Nonprofit Corporations), Business Organizations Code;

(8) group health coverage made available by a school district in accordance with Section 22.004 (Group Health Benefits for School Employees), Education Code;

(9) a regional or local health care program operated under Section 75.104 (Health Care Services), Health and Safety Code; and

(10) a self-funded health benefit plan sponsored by a professional employer organization under Chapter 91 (Professional Employer Organizations), Labor Code.

(c) Provides that this subchapter applies to coverage under a group health benefit plan provided to a resident of this state regardless of whether the group policy, agreement, or contract is delivered, issued for delivery, or renewed in this state.

Sec. 1369.223. PROHIBITED CONDUCT. (a) Prohibits a health benefit plan that provides coverage for a serious mental illness from requiring, before the health benefit plan provides coverage of a prescription drug approved by the United States Food and Drug Administration, that the enrollee fail to successfully respond to a different drug or prove a history of failure of a different drug.

(b) Provides that this section applies only to a drug the use of which is prescribed by a physician or other health care provider for the serious mental illness, is determined by the prescribing physician or health care provider in consultation with the enrollee as the most appropriate course of treatment for the serious mental illness, and is approved by the United States Food and Drug Administration.

(c) Provides that this section applies only to a drug prescribed to an enrollee who is 18 years of age or older.

(d) Provides that this section does not affect a pharmacist's authority to substitute a generic equivalent or one or more interchangeable biological products under Section 562.008 (Generic Equivalent or Interchangeable Biological Product Authorized), Occupations Code, for a prescription drug prescribed for a serious mental illness.

SECTION 2. Makes application of this Act prospective to January 1, 2022.

SECTION 3. Effective date: September 1, 2021.