

Patient Protection Act

HB 2766 by Smithee (Turner)

DIGEST: HB 2766, the Patient Protection Act, would have required managed care plans to provide prospective enrollees a written description of the plan containing specified information and to provide adequate access to services, including access to the M.D. Anderson Cancer Center.

Other managed care plan requirements included those relating to health provider credentialing and termination processes, allowing consultation from physicians and dentists on a plan's medical or dental policy, prohibiting exclusion of providers solely on the basis of anticipated patient characteristics, paying for emergency services, the timing of prior authorizations, utilization review and offering point-of-service plans. The Kaiser-Permanente, Scott and White and the Harris-Methodist Health System managed care plans would have been exempt from the provider participation, credentialing and termination provisions of the act.

GOVERNOR'S REASON FOR VETO: "The market for health care is undergoing rapid and revolutionary change. This bill attempted the difficult task of balancing the often conflicting interests of the parties in the health care delivery system while attempting to preserve consumer affordability. Had that focus remained sharp, good law would have resulted. Unfortunately, the final bill imposes numerous new regulations on managed care organizations, adds potentially significant costs to state and local governments and private employers, and contains exemptions which may give a competitive advantage to some managed care organizations. The result was too little protection for patients and much too much protection for special interests.

"The most blatant example of tilting the playing field for a special interest is that at least one managed care entity is totally excluded from the bill's provisions, while others must comply. The bill also requires a specialty hospital (of which there is one in Texas) to be a provider for every HMO plan in the state. While well-intended, these provisions increase costs for all Texans, including those who might not need or choose such services.

"The provisions that would have expanded patient freedom of choice (perhaps the bill's best feature) are unfortunately written so broadly that the federal Health Care Financing Administration has indicated the bill may violate federal requirements. Other provisions of the bill may also contravene the Federal HMO Act.

"Nevertheless, the bill addressed a number of legitimate concerns, particularly in the area of patient protection and quality assurance. Therefore, I will direct the Commissioners of Insurance and Health to promulgate the following rules: (1) require disclosure of information concerning plan terms and conditions to allow enrollees and employers to make informed decisions when selecting among managed care plans; (2) allow evaluation of managed care plans to ensure consumers are receiving quality care at an affordable price; (3) where possible, expand HMO patient choice to allow for continuity of treatment should a patient's treating physician be terminated; (4) implement reasonable due process procedures to ensure providers are given reasons if they are turned down or terminated from a managed care plan; and (5) prohibit retaliatory actions by HMOs against patients for filing complaints or appealing decisions."

RESPONSE:

Rep. John Smithee, the author of HB 2766, said: "I still think the bill is a good bill. Everything that was addressed in the bill was from real-life experiences with health maintenance organizations, and a lot of time was spent developing the bill. Hopefully the idea won't die and will be back next session."

Sen. Jim Turner, the sponsor of the bill, said: "The veto of HB 2766 is a big win for large insurance companies and a big loss for patients. The insurance companies funded a multimillion dollar media and lobbying campaign falsely declaring this bill to be a tax on health care. In spite of those tactics, this bill passed with overwhelming support in both the Texas House and Senate. It provided a level playing field in a managed health care system increasingly controlled by the profit-driven decisionmaking of big insurance companies.

"As passed by the Legislature, the Patient Protection Act would have provided basic protections important to all Texans seeking health insurance. It would have guaranteed their right to be treated by the physician of their choice and would have ensured that their physician could treat them in a proper manner without undue fear of retaliation by a managed care organization looking only at the bottom line. It would have also guaranteed patients access to information about their managed care plan and required adequate coverage of emergency situations. When you go to the emergency room with chest pains, you want your doctor, not an insurance clerk, making the decisions."

NOTES:

HB 2766 was analyzed in Part One of the May 9 *Daily Floor Report*.