

BILL ANALYSIS

C.S.H.B. 3685
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that certain drugs on the centralized Medicaid formulary may require prior authorization and that pharmacy prior authorization services for Medicaid enrollees are administered by the managed care organization. There are concerns that the ability for managed care organizations and pharmacy benefit managers to add their own clinical edits, clinical authorizations, cost ceilings, and other additional requirements causes unnecessary and harmful denials of medications and delays access to medications that could be administered at home or in an outpatient setting. C.S.H.B. 3685 seeks to address this issue by providing requirements for managed care organizations or pharmacy benefit managers in relation to certain pharmacy benefits provided to certain children through Medicaid.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3685 amends the Government Code to revise the required contents of the Medicaid managed care contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) to provide that, as part of the required outpatient pharmacy benefit plan provided by the MCO as part of the contract, the MCO or pharmacy benefit manager, as applicable:

- is prohibited from requiring a prior authorization, other than a clinical prior authorization imposed under the Medicaid vendor drug program, for or imposing any other barriers to a drug that is prescribed to a medically fragile child for a particular disease or treatment and that is on the vendor drug program formulary, regardless of whether the drug is included in the preferred drug list adopted by HHSC or prescribed for an off-label use;
- is required 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 is on an applicable formulary;
- is prohibited from using a protocol that requires a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than the drug that the child's physician recommends for the child's treatment before the MCO provides coverage for the recommended drug; and
- is required to pay liquidated damages to HHSC for each failure, as determined by HHSC, to comply with these provisions in an amount that is a reasonable forecast of the damages caused by the noncompliance.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3685 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the prohibition against the MCO requiring a prior authorization for or imposing any other barriers to a drug that is prescribed to a medically fragile child for a particular disease or treatment and that is on the Medicaid vendor drug program formulary to:

- limit the clinical prior authorizations excepted from the prohibition to those imposed under the vendor drug program; and
- clarify that a drug prescribed for an off-label use is included among those subject to the prohibition.