SUBJECT: Health benefit plan minimum coverage for postpartum care

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Sandra Gale, Coalition for Nurses Advanced Practice; Don Gessler, M.D., Texas HMO Association; Hannah Riddering, Texas National Organization for Women; Heather Vasek, Texas Association for Home Care; Mary Kathleen Washburn

Against — Will Davis, Texas Legal Reserve Officials Association/Texas Life Insurance Association; Gary Tolman, American National Insurance Company

On — Rhonda Myron, Texas Department of Insurance

DIGEST: CSHB 102 would enact the Lee Alexandria Hanley Act, which would require health benefit plans that provide maternity benefits to include coverage for inpatient care for a mother and her newborn in a health care facility for a minimum of 48 hours following uncomplicated vaginal delivery and 96 hours following an uncomplicated delivery by caesarean section. The act would not require a mother to remain under inpatient care in a health care facility for any fixed term following the birth of her child. Each health benefit plan would have to provide to each enrollee written notice regarding required coverage under the bill.

A health benefit plan that provides in-home postdelivery care would not be required to provide the minimum hours of inpatient coverage unless considered medically necessary by the attending physician.

"Health benefit plan" would be defined using standard provisions and would include individual and group health insurance plans, health maintenance organizations, and multiple employer welfare arrangements to the extent allowed under federal law. Small employer plans would be exempt from the

definition.

If a mother or newborn child was discharged before the expiration of specified minimum inpatient hours of coverage, the health benefit plan would have to provide timely postdelivery care by a physician, a registered nurse, or other appropriate licensed health care provider. "Postdelivery care" would be defined as postpartum health care services, including parent education, assistance and training in breast-feeding and bottle-feeding, and the performance of necessary clinical tests. The care could be provided at the mother's home, health care office or facility, or other location deemed appropriate by the commissioner of insurance.

A health benefit plan could not modify the terms and conditions of coverage to request less than minimum coverage based on determination by a person enrolled in the plan; offer financial or other incentives contingent on the waiver by the mother of the minimum hours of inpatient coverage; refuse to accept a physician's recommendation for inpatient care or penalize a physician for such recommendations; or reduce payments or other reimbursement below the usual and customary rate of reimbursement.

The bill would take effect September 1, 1997, and apply only to plans delivered, issued or renewed on or after that date.

SUPPORTERS SAY:

CSHB 102 would ensure that mothers and the 300,000 newborns born in Texas each year receive necessary medical care and attention and would help prevent illness and mortality arising from complications that go unmonitored or untreated after too hasty release from the hospital. CSHB 102 would implement provisions that would conform with new federal requirements, but would not require a minimum hospital stay in all cases, therefore containing higher costs, if any. However, it would improve on federal requirements by requiring health benefit plans to ensure appropriate and necessary postdelivery care is rendered to mothers who choose to leave the hospital setting. The bill would be named for Lee Alexandria Hanley, a baby who died from a viral infection from being released from the hospital too soon after her birth.

The growth of managed care and attendant focus on cost controls and cost-cutting has steadily reduced health benefit coverage for inpatient stays for

maternity care. The average length of stay for in-patient hospital care has declined from 4.1 days in 1970 to 2.6 days in 1992. Some HMOs have been known to limit hospital stays to eight and twelve hours after childbirth. So-called "drive-by deliveries" can harm both mothers and infants. According to the Centers for Disease Control and Prevention, about 14 percent of women and 11 percent of newborns experience complications after their release from the hospital. Many infant problems do not become apparent within the first 24 hours after delivery, and rapid response is critical to infant safety and often less costly than hospital readmission.

CSHB 102 would not dictate medical practice nor place into law provisions that are insufficiently flexible to meet changing medical standards. It would simply ensure that decisions to deviate from this minimum standard were made by the doctor and the mother and not by the health benefit plan, and that adequate and necessary postdelivery care was provided. Patients could stay in the hospital for a shorter length of time than the minimum standard if the doctor and the patient agreed a longer stay was unnecessary. About 12 states have already passed similar legislation, and it is under consideration in about 17 other states.

CSHB 102 would not increase costs or reduce benefits for most people. Most health benefit plans already provide at least as much coverage as required in the bill or do not have predetermined maximum. However, CSHB 102 would target plans that conform with federal requirements but provide insufficient postdelivery out-of-hospital care for women who choose to be discharged early.

OPPONENTS SAY:

State and federal law should avoid setting standards for the care and treatment of specific medical conditions or body parts. Minimum stay requirements could infringe on medical decisionmaking and practice trends by setting arbitrary standards for a specific medical condition. Also, longer hospital stays increase the risk of exposing the mother and child to non-maternity-related diseases and complications.

Mandatory minimum inpatient stay and postdelivery benefits would increase the cost of health insurance, just as any mandated benefit would, and could thereby limit the availability of employer-sponsored health insurance or the access to insurance by individuals and families.

OTHER OPPONENTS SAY:

An out-of-hospital postdelivery service benefit mandate would not help everyone covered by insurance. It would only affect about 20 percent of the health insurance market; self-insured health benefit plans and Medicare benefits plans, which cover about 46 percent of the market, fall under federal regulation and do not have to conform with state mandates. Also, small business health plans are not included in the definition of a health benefit plan under the bill.

NOTES:

Changes made by the committee substitute to the original version of the bill include amendments to the definition of health benefit plan; the addition of the title of "The Lee Alexandria Hanley Act"; specifications that the bill would not require mothers to give birth in a hospital or to remain under inpatient care for any fixed term.