

SUBJECT: Utilization review by workers compensation insurers

COMMITTEE: Business and Industry — favorable, with amendment

VOTE: 8 ayes — Brimer, Rhodes, Corte, Elkins, Giddings, Janek, Solomons, Woolley

0 nays

1 absent — Dukes

WITNESSES: None

BACKGROUND : Utilization review is the practice of evaluating the medical necessity and appropriateness of treatment by or for insurance companies. Treatment may be reviewed prospectively when it is proposed, concurrently to determine whether it should be continued, or retrospectively after the care has been rendered.

Most insurance carriers contract with utilization review agents to make determinations of medical necessity. Utilization review agents are regulated under the Insurance Code, but agents who conduct utilization review for workers' compensation carriers are exempt from these regulations.

Under the Texas Workers' Compensation Act, workers' compensation carriers are subject to statutes that contain many elements of the utilization review process, such as guidelines for reasonable medical fees, charges, and services and necessary treatment of injuries. Patients or providers who are denied payment or services are entitled to a review by the commission, and if the matter is not resolved at that level, to a hearing by the State Office of Administrative Hearings. The Texas Workers' Compensation Act does not include regulations for utilization review agents.

DIGEST: HB 3197 would specify that agents who conduct utilization review for workers' compensation insurance carriers are subject to Insurance Code regulations governing utilization review agents, unless these regulations conflict with the Texas Workers' Compensation Act. In such cases, the Texas Workers' Compensation Act would prevail.

HB 3197 would take effect September 1, 1997 and would apply only to a utilization review conducted on or after January 1, 1998.

**SUPPORTERS
SAY:**

HB 3197 would ensure that workers' compensation carriers are held to basic quality standards for utilization review (UR), such as having a doctor oversee and requiring certain basic training for all UR staff. Workers' compensation carriers currently are subject to no such requirements, so that anyone, regardless of qualifications, can conduct utilization review. Utilization review is a critical part of determining whether the insurer will pay for care and what kind of care will be provided. These decisions are far too important to be left to untrained and unqualified staff. Every insurer of any kind that conducts utilization review should be subject to established state laws governing this practice.

Any increased costs for those comp carriers who do not have a doctor overseeing utilization review or do not provide the staff training required by utilization review regulations would not be significant enough to affect employers' premiums. Furthermore, these expenses should be considered a fundamental part of any utilization review program.

HB 3197 clearly states that provisions in the Labor Code would prevail over those in the Insurance Code in case of any conflict or confusion about which law generally governs the workers' compensation utilization review process.

**OPPONENTS
SAY:**

HB 3197 would add an extra layer of bureaucracy to the workers compensation system, creating unnecessary costs for carriers. Workers' compensation carriers are exempt from utilization review statutes in the Insurance Code because the requirements for comp carriers outlined in the Labor Code are sufficiently comprehensive and tailored to the workers' compensation system. HB 3197 would generate higher costs for insurers, which could be passed on to employers in the form of higher premiums.

NOTES:

The committee amendment would make a technical correction to the original version of the bill.