

SUBJECT: Continuing Medicaid MCO pharmacy benefit plan contract requirements

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Frank, Miller, Minjarez, Rose, Wu

0 nays

3 absent — Keough, Klick, Swanson

WITNESSES: For — Chase Bearden, Coalition of Texans with Disabilities; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Pete Martinez, Pharmaceutical Research and Manufacturers of America; Lee Johnson, Texas Council of Community Centers; (*Registered, but did not testify*: David Gonzales, Alliance of Independent Pharmacies of Texas; Cynthia Humphrey, Association of Substance Abuse Programs; Eric Woomer, BIO; Dennis Borel, Coalition of Texans with Disabilities; Jordan Williford, Epilepsy Foundation; Gyl Switzer, Mental Health America of Texas; Eric Kunish, National Alliance on Mental Illness-Austin; John Heal, Pharmacy Buying Association Texas and TrueCare Pharmacies; Suzette Fields, Protect TX Fragile Kids; Chad Cantella, Private Providers Association of Texas; Stephanie Simpson, Texas Association of Manufacturers; Thomas Kowalski, Texas Healthcare and Bioscience Institute; Duane Galligher, Texas Independent Pharmacies Association; Justin Hudman, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; Jason Howell; Erin Jones)

Against — Scott Simpson, Dell Children's Health Plan; Mary Dale Peterson, Driscoll Health Plan; Jamie Dudensing, Texas Association of Health Plans; Jonathan Vecchiet, Texas Children's Health Plan; (*Registered, but did not testify*: Mindy Ellmer, Pharmaceutical Care Management Association; Amanda Martin, Texas Association of Business; Kay Ghahremani, Texas Association of Community Health Plans)

On — Gary Jessee, Health and Human Services Commission; (*Registered,*

but did not testify: Rachel Butler, Health and Human Services Commission; Khiem Ngo)

BACKGROUND: Government Code, sec. 533.005(a-1) requires a Medicaid managed care organization (MCO) to enforce its pharmacy benefit plan contract requirements until August 31, 2018. An MCO's pharmacy benefit plan contract must:

- exclusively employ the vendor drug program formulary and preserve the state's ability to reduce waste, fraud, and abuse under Medicaid;
- adhere to the Health and Human Services Commission's (HHSC) preferred drug list and procedures for the vendor drug program; and
- include prior authorization procedures for drugs excluded from HHSC's preferred drug list.

Medicaid MCOs receive a capitation, which is a set payment rate, to cover the cost of health care for their enrollees. Included in their capitation is the cost of prescription drug benefits. However, HHSC retains control of the prescription drug formulary and preferred drug list, negotiates drug pricing directly with manufacturers, and uses the rebates to help fund the Medicaid program.

DIGEST: CSHB 1917 would extend the enforcement of a Medicaid managed care organization's pharmacy benefit plan contract requirements until August 31, 2023.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: CSHB 1917 would preserve a functioning program that provides pharmacy benefits to the Medicaid population in a cost-effective manner. The existing Medicaid vendor drug program allows for public input, establishes patient protections, and produces long-term success in

negotiating drug prices with and obtaining substantial rebates from drug manufacturers.

If Medicaid managed care organizations (MCOs) had the ability to create their own preferred drug list, as some suggest, Texas would lose the transparency of the public process through which the preferred drug list is adopted, making it more difficult for patients, providers, and other stakeholders to provide input for the medications that may be covered. The state also would lose millions of dollars in rebates from drug companies. Medicaid MCOs could not guarantee they could achieve their projected cost-savings if they controlled the drug formulary.

Some reports indicate that some Medicaid MCOs do not meet the vendor drug program contractual requirements regarding prior authorization criteria, processing times, denial and approval notices, and data sharing of patients' clinical histories among health plans. This hinders efforts for obtaining prior authorization for antipsychotic medications.

**OPPONENTS
SAY:**

CSHB 1917 would further delay the ability of Medicaid managed care organizations to control the drug formulary. If MCOs were granted authority to create their own preferred drug lists, they could achieve more cost-savings and set less stringent prior authorization procedures for certain drugs.

NOTES:

CSHB 1917 differs from the bill as filed in that the committee substitute would require the enforcement of a Medicaid managed care organization's pharmacy benefit plan contract requirements until August 31, 2023, instead of August 31, 2030.