

SUBJECT: Evidence of coverage issued by health maintenance organizations

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

WITNESSES: None

BACKGROUND : Health maintenance organizations (HMOs) are required to provide enrollees evidence of coverage that states the medical and health care services to which the enrollee is entitled, any limitation on those services, where and in what manner those services may be obtained and a clear and understandable description of the HMO's methods for resolving enrollee complaints.

In general, HMO enrollees must choose a primary care physician, usually a general practitioner or doctor specializing in family practice medicine, to serve as the “gatekeeper” to HMO-covered health care services by overseeing enrollee medical care and making referrals to specialists, when needed.

DIGEST: CSHB 3269 would require HMO evidence of coverage provisions to also state:

- that the HMO could not deny a patient referral to a non-network provider for medically necessary services not available through network physicians without a review by an appropriate specialist and that non-network physicians would be fully reimbursed at usual and customary or previously agreed rates;
- that an enrollee with a chronic, disabling or life-threatening illness could apply to the HMO, under HMO specifications, to use a nonprimary care physician specialist as the enrollee's primary care physician. The nonprimary care physician specialist would have to meet the HMO's requirements for primary care physician participation and be willing to

accept the coordination of all the enrollee's health care needs. The designation could not be applied retroactively; and

- that if a request for consideration of a nonprimary care physician specialist was denied, the enrollee could appeal the decision through the HMO's established complaint and appeals process.

The changes made by the bill would apply only to evidence of coverage issued, delivered or renewed on or after January 1, 1998.

**SUPPORTERS
SAY:**

CSHB 3269 would help ensure that HMO enrollees with special medical conditions receive needed health care services and appropriate medical supervision. Although HMOs provide comprehensive services that meet most patient health care problems, they may not have physicians in the network who can treat special patients with rare or complex medical conditions. The bill would not change current HMO operations because it would just places into statute some of the "patient protection" rules adopted by the Texas Department of Insurance last year. However, the bill would give such requirements comparable authority with other HMO benefits required by law.

Requiring the HMO to review the referral by using a physician who is the same specialty as the referring physician ensures that the referral is subject to a review by a medical peer who can judge the appropriateness of the referral, which helps patients as well as protects the HMO from paying for unnecessary referrals. To screen referrals, HMOs often use health care professionals, such as nurses and physician assistants, who may not have sufficient understanding of complicated cases.

Patients with long-term disabilities or chronic medical problems may be better served by the oversight of a nonprimary physician specialist who understands the severity or comprehensive nature of the patients' problems and who can prevent other health care problems from arising as a result of treatment. For example, enrollees with severe mobility and feeding disabilities, such as some individuals with cerebral palsy, may be better served by having a rehabilitation specialist as their primary care physician who can forestall the use of treatments or modalities that might lead to ulcerations.

General practitioners and other traditional primary care physicians are the best kinds of “gatekeeper” because they are well-experienced in a wide range of medical problems and are not limited to focusing on one area of the body or a single group of diseases. Some specialists may not be sufficiently interested in or experienced enough to perform the gatekeeper role that is required for cost-effective delivery of services, and therefore specialists should be willing to accept the coordination of all of the enrollee’s health care needs for approval as an enrollee’s “primary care physician.” The use of nonprimary care physician specialists as primary care physicians should be limited to few and exceptional cases; however, enrollees would be protected from inappropriate denials by the right to appeal an HMO’s decision.

OPPONENTS
SAY:

This bill is unnecessary; its provisions are already included in Department of Insurance regulations, which more appropriately and responsively allow modifications to occur as health care delivery and systems such as HMOs evolve and change.

HMOs could still deny or unduly limit the use of a nonprimary care physician specialist as an enrollee’s primary care physician. For example, they could require information or other requirements that could be considered burdensome to the specialist.

NOTES:

The committee substitute made no substantive changes. Provisions similar to CSHB 3269 are found in SB 385 by Sibley, which passed the Senate on March 11 and was reported favorably, as substituted, by the House Insurance Committee on April 24.