

SUBJECT: Prohibiting certain ER claims from being dependent on utilization review

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Lucio, Oliverson, S. Davis, Julie Johnson, Lambert, C. Turner,
Vo

0 nays

2 absent — G. Bonnen, Paul

WITNESSES: For — Paul Kivela, Code 3 Emergency Partners; Jeb Shipp, Hospitality Health ER; Theresa Tran, Texas College of Emergency Physicians; Carol Keating; (*Registered, but did not testify*: Mark Feanny, America's ER; Stacey Pogue, Center for Public Policy Priorities; Denise Rose, Community Health Systems; Angela Smith, Fredericksburg Tea Party; Jeffery Addicks, Hospitality Health ER; James Mathis, Houston Methodist Hospital; Tucker Frazier, Kyle Frazier Consulting; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Daniel Chepkauskas and Kyle Frazier, Patient Choice Coalition of Texas; Bradford Shields, Texas Association of Freestanding Emergency Centers; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; Michael Grimes, Texas Radiological Society; Bonnie Bruce, Texas Society of Anesthesiologists; Jenna Courtney, Texas Society of Pathologists; John Henderson, Texas Organization of Rural and Community Hospitals; Georgia Keysor; Matt Long; Joseph Murphy; Ken Olson)

Against — Karen Hill, Community Health Choice, Texas Association of Community Health Plans, Texas Association of Health Plans; Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans)

On — Jamie Walker, Texas Department of Insurance

BACKGROUND: Insurance Code ch. 541 regulates insurance industry trade practices by defining and providing for the determination of practices that are unfair methods of competition or unfair or deceptive acts or practices, and prohibiting those trade practices.

Insurance Code sec. 4201.002 defines utilization review as a system for prospective, concurrent, or retrospective review of medical necessity and appropriateness of health care services and a determination of the experimental or investigational nature of those services. The term excludes a review in response to an elective request for clarification of coverage.

Government Code sec. 533.005 establishes requirements for a contract between a Medicaid managed care organization and the Health and Human Services Commission.

DIGEST: Under HB 1832, making health benefit plan coverage for an emergency care claim dependent on a utilization review determination that the patient's medical condition required emergency care would be an unfair method of competition or an unfair or deceptive act or practice in the insurance industry.

The bill would apply to a Medicaid managed care organization that had a contract with the Health and Human Services Commission.

The bill would take effect September 1, 2019, and would apply only to a health benefit plan issued or renewed on or after January 1, 2020.

SUPPORTERS SAY: HB 1832 would close a loophole that some health insurance companies use to avoid claim payments for emergency care. Health insurance plans conduct utilization reviews of emergency care claims and often deny coverage for emergency room visits deemed a non-emergency, leaving patients with a surprise medical bill. These retroactive reviews can discourage individuals with genuine emergencies from seeking lifesaving care.

By prohibiting emergency care claims from being dependent on a utilization review determination, the bill would hold health plans accountable for benefits they are required to cover. According to a study by the American College of Emergency Physicians, only 5.5 percent of ER visits are non-urgent. The bill would improve consumer protections by ensuring all Texans were covered for emergency care services regardless of a patient's final diagnosis.

**OPPONENTS
SAY:**

HB 1832 would undermine utilization review, which is a necessary practice for ensuring hospitals provide the most appropriate health care services for medical conditions. Currently, state and federal law require health plans to cover emergency care. The bill would make it more difficult for health plans to identify fraud, waste, and abuse in the medical billing process, especially for ER visits.