

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Gallego, et al.

H.B. No. 806

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1371 to read as follows:

CHAPTER 1371. COVERAGE FOR CERTAIN PROSTHETIC DEVICES, ORTHOTIC DEVICES, AND RELATED SERVICES

Sec. 1371.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual entitled to coverage under a health benefit plan.

(2) "Orthotic device" means a custom-fitted or custom-fabricated medical device that is applied to a part of the human body to correct a deformity, improve function, or relieve symptoms of a disease.

(3) "Prosthetic device" means an artificial device designed to replace, wholly or partly, an arm or leg.

Sec. 1371.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or

insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) a reciprocal exchange operating under Chapter 942;
- (6) a Lloyd's plan operating under Chapter 941;
- (7) a health maintenance organization operating under Chapter 843;
- (8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) Notwithstanding Section 172.014, Local Government Code, or any other law, this chapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(c) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579;

1 and

2 (4) basic coverage under Chapter 1601.

3 Sec. 1371.003. REQUIRED COVERAGE FOR PROSTHETIC DEVICES,  
4 ORTHOTIC DEVICES, AND RELATED SERVICES. (a) A health benefit plan  
5 must provide coverage for prosthetic devices, orthotic devices, and  
6 professional services related to the fitting and use of those  
7 devices that equals the coverage provided under federal laws for  
8 health insurance for the aged and disabled under Sections 1832,  
9 1833, and 1834, Social Security Act (42 U.S.C. Sections 1395k,  
10 1395l, and 1395m), and 42 C.F.R. Sections 410.100, 414.202,  
11 414.210, and 414.228, as applicable.

12 (b) Covered benefits under this chapter are limited to the  
13 most appropriate model of prosthetic device or orthotic device that  
14 adequately meets the medical needs of the enrollee as determined by  
15 the enrollee's treating physician or podiatrist and prosthetist or  
16 orthotist, as applicable.

17 (c) Subject to applicable copayments and deductibles, the  
18 repair and replacement of a prosthetic device or orthotic device is  
19 a covered benefit under this chapter unless the repair or  
20 replacement is necessitated by misuse or loss by the enrollee.

21 (d) Coverage required under this section:

22 (1) must be provided in a manner determined to be  
23 appropriate in consultation with the treating physician or  
24 podiatrist and prosthetist or orthotist, as applicable, and the  
25 enrollee;

26 (2) may be subject to annual deductibles, copayments,  
27 and coinsurance that are consistent with annual deductibles,

1 copayments, and coinsurance required for other coverage under the  
2 health benefit plan; and

3 (3) may not be subject to annual dollar limits.

4 (e) Covered benefits under this chapter may be provided by a  
5 pharmacy that has employees who are qualified under the Medicare  
6 system and applicable Medicaid regulations to service and bill for  
7 orthotic services. This chapter does not preclude a pharmacy from  
8 being reimbursed by a health benefit plan for the provision of  
9 orthotic services.

10 Sec. 1371.004. PREAUTHORIZATION. A health benefit plan may  
11 require prior authorization for a prosthetic device or an orthotic  
12 device in the same manner that the health benefit plan requires  
13 prior authorization for any other covered benefit.

14 Sec. 1371.005. MANAGED CARE PLAN. A health benefit plan  
15 provider may require that, if coverage is provided through a  
16 managed care plan, the benefits mandated under this chapter are  
17 covered benefits only if the prosthetic devices or orthotic devices  
18 are provided by a vendor or a provider, and related services are  
19 rendered by a provider, that contracts with or is designated by the  
20 health benefit plan provider. If the health benefit plan provider  
21 provides in-network and out-of-network services, the coverage for  
22 prosthetic devices or orthotic devices provided through  
23 out-of-network services must be comparable to that provided through  
24 in-network services.

25 SECTION 2. Chapter 1371, Insurance Code, as added by this  
26 Act, applies only to a health benefit plan that is delivered,  
27 issued for delivery, or renewed on or after January 1, 2010. A

1 health benefit plan that is delivered, issued for delivery, or  
2 renewed before January 1, 2010, is covered by the law in effect at  
3 the time the plan was delivered, issued for delivery, or renewed,  
4 and that law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2009.

ADOPTED

APR 30 2009

*Letay Shaw*  
Secretary of the Senate

By: Gallego/Zaffirini

H.B. No. 806

Substitute the following for H.B. No. 806:

By: *[Signature]*

C.S. H.B. No. 806

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14 human body to correct a deformity, improve function, or relieve  
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22 that provides benefits for medical or surgical expenses incurred as  
23 a result of a health condition, accident, or sickness, including an  
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6  
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insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

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(4) basic coverage under Chapter 1601.

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9 most appropriate model of prosthetic device or orthotic device that  
10 adequately meets the medical needs of the enrollee as determined by  
11 the enrollee's treating physician or podiatrist and prosthetist or  
12 orthotist, as applicable.

13 (c) Subject to applicable copayments and deductibles, the  
14 repair and replacement of a prosthetic device or orthotic device is  
15 a covered benefit under this chapter unless the repair or  
16 replacement is necessitated by misuse or loss by the enrollee.

17 (d) Coverage required under this section:

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20 podiatrist and prosthetist or orthotist, as applicable, and the  
21 enrollee;

22 (2) may be subject to annual deductibles, copayments,  
23 and coinsurance that are consistent with annual deductibles,  
24 copayments, and coinsurance required for other coverage under the  
25 health benefit plan; and

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25 renewed before January 1, 2010, is covered by the law in effect at  
26 the time the plan was delivered, issued for delivery, or renewed,  
27 and that law is continued in effect for that purpose.

1           SECTION 3.   This Act takes effect September 1, 2009.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 30, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB806** by Gallego (Relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code to require certain health insurance plans to provide coverage for prosthetic devices, orthotic devices and related services equal to the coverage provided for such devices and services under Medicare.

The bill would take effect September 1, 2009, and would apply to all health plans delivered or renewed on or after January 1, 2010.

Based on the analysis of the Employees Retirement System (ERS), Teachers Retirement System (TRS), Texas A&M University System, and University of Texas System Administration, ERS HealthSelect, TRS-Care, TRS-ActiveCare, Texas A&M University System health insurance, and UTSELECT health insurance currently provide coverage equal to that provided under Medicare. It is anticipated that any costs realized by these agencies from implementing the provisions of the bill could be absorbed within existing resources.

Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$33,700 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in filings of amendments to reflect this change of law by insurers.

Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all general revenue would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, SD, KJG, MW, CH



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 17, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB806** by Gallego (Relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.), **Committee Report 2nd House, Substituted**

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**LBB Staff:** JOB, KJG, MW, CH



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 15, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB806** by Gallego (Relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.), **As Engrossed**

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**LBB Staff:** JOB, KJG, MW, CH





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 9, 2009**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB806** by Gallego (Relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.), **As Introduced**

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