

BILL ANALYSIS

C.S.H.B. 438
By: Thompson
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The emergence of clinically safe and effective orally administered anticancer medication has significantly increased the treatment options for cancer patients. However, many barriers currently impede the adoption of orally administered treatment as mainstay cancer therapy. One of the most significant barriers, which reflects the disparity between medical and pharmacy benefit design, is greater patient out-of-pocket costs for oral medication covered under the pharmacy benefit than the out-of-pocket costs for the intravenous medication covered under the medical benefit. This hinders patient access to potentially life-saving oral anticancer treatment. In 2010, the Texas Department of Insurance released a report on the disparity between orally administered and intravenously administered cancer medication and recommended that the Texas Legislature consider legislation that would equalize the difference in costs.

C.S.H.B. 438 requires a health benefit plan that provides coverage for chemotherapy treatment to provide coverage for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits by the plan.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 438 amends the Insurance Code to require a health benefit plan that provides coverage for cancer treatment to provide coverage for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits by the plan. The bill specifies that the coverage requirement for orally administered anticancer medications does not prohibit a health benefit plan from requiring prior authorization for such medications. The bill prohibits the cost to a covered individual for an authorized, orally administered anticancer medication from exceeding the coinsurance or copayment that would be applied to a chemotherapy or other cancer treatment visit.

C.S.H.B. 438 prohibits a health benefit plan issuer from reclassifying anticancer medications or increasing a coinsurance, copayment, deductible, or other out-of-pocket expense imposed on anticancer medications to achieve compliance with the bill's provisions. The bill requires any plan change that otherwise increases an out-of-pocket expense applied to anticancer medications to also be applied to the majority of comparable medical or pharmaceutical benefits under the plan.

C.S.H.B. 438 specifies that its provisions do not prohibit a health benefit plan issuer from increasing cost-sharing for all benefits, including anticancer treatments. The bill defines "health benefit exchange" and provides for the meaning of "qualified health plan" by reference to the

federal Patient Protection and Affordable Care Act.

C.S.H.B. 438 makes its provisions applicable only to a health benefit plan offered by specified types of insurance providers and exempts from its provisions a plan that provides certain coverage and specified insurance policies and a qualified health plan offered through a health benefit exchange.

C.S.H.B. 438 makes its provisions applicable only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2012.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 438 omits a provision included in the original defining "enrollee." The substitute contains provisions not included in the original defining "health benefit exchange" and providing for the meaning of "qualified health plan" by reference to federal law.

C.S.H.B. 438 differs from the original by exempting from the applicability of its provisions a multiple employer welfare arrangement that holds a certificate of authority under state law, whereas the original makes its provisions apply to a health benefit plan offered by such an arrangement. The substitute omits provisions included in the original making its provisions apply to a health benefit plan offered by a basic coverage plan under the Texas Employees Group Benefits Act, a basic plan under the Texas Public School Retired Employees Group Benefits Act, a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act, and basic coverage under the State University Employees Uniform Insurance Benefits Act. The substitute contains a provision not included in the original exempting from the applicability of its provisions a qualified health plan offered through a health benefit exchange.

C.S.H.B. 438 differs from the original by prohibiting the cost to a covered individual for an authorized orally administered anticancer medication from exceeding the coinsurance or copayment that would be applied to chemotherapy or other cancer treatment visit, whereas the original prohibits the patient's out-of-pocket costs for such an authorized medication from being greater than the out-of-pocket costs for an intravenously administered anticancer medication. The substitute omits provisions included in the original requiring a health benefit plan issuer, before increasing patients' out-of-pocket costs for intravenously administered anticancer medication, to file a proposed increase with the Texas Department of Insurance with certain evidence. The substitute omits provisions included in the original authorizing the commissioner of insurance to deny the increase, prohibiting the increase from violating certain requirements, and providing for the circumstance under which the plan issuer may implement the increase.

C.S.H.B. 438 contains provisions not included in the original prohibiting a health benefit plan issuer from reclassifying anticancer medications or increasing certain out-of-pocket expenses imposed on anticancer medications to comply with the its provisions, requiring any plan change that otherwise increases an out-of-pocket expense applied to such medications to also be applied to the majority of comparable medical or pharmaceutical benefits under the plan, and specifying that the provision requiring coverage for orally administered anticancer medications does not prohibit a health benefit plan issuer from increasing cost-sharing for all benefits, including anticancer treatments.