

By: Zerwas

H.B. No. 1032

Substitute the following for H.B. No. 1032:

By: Smithee

C.S.H.B. No. 1032

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a standard request form for prior authorization of prescription drug benefits.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. STANDARD REQUEST FORM FOR PRIOR AUTHORIZATION OF PRESCRIPTION DRUG BENEFITS

Sec. 1369.251. DEFINITION. In this subchapter, "prescription drug" has the meaning assigned by Section 551.003, Occupations Code.

Sec. 1369.252. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan 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 a small or large employer group contract 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;

1 (4) a stipulated premium company operating under
2 Chapter 884;

3 (5) a reciprocal exchange operating under Chapter 942;

4 (6) a health maintenance organization operating under
5 Chapter 843;

6 (7) a multiple employer welfare arrangement that holds
7 a certificate of authority under Chapter 846; or

8 (8) an approved nonprofit health corporation that
9 holds a certificate of authority under Chapter 844.

10 (b) This subchapter applies to group health coverage made
11 available by a school district in accordance with Section 22.004,
12 Education Code.

13 (c) Notwithstanding Section 172.014, Local Government Code,
14 or any other law, this subchapter applies to health and accident
15 coverage provided by a risk pool created under Chapter 172, Local
16 Government Code.

17 (d) Notwithstanding any provision in Chapter 1551, 1575,
18 1579, or 1601 or any other law, this subchapter applies to:

19 (1) a basic coverage plan under Chapter 1551;

20 (2) a basic plan under Chapter 1575;

21 (3) a primary care coverage plan under Chapter 1579;

22 and

23 (4) basic coverage under Chapter 1601.

24 (e) Notwithstanding any other law, this subchapter applies
25 to coverage under:

26 (1) the child health plan program under Chapter 62,
27 Health and Safety Code, or the health benefits plan for children

1 under Chapter 63, Health and Safety Code; and

2 (2) the medical assistance program under Chapter 32,
3 Human Resources Code.

4 Sec. 1369.253. EXCEPTION. This subchapter does not apply
5 to:

6 (1) a health benefit plan that provides coverage:

7 (A) only for a specified disease or for another
8 single benefit;

9 (B) only for accidental death or dismemberment;

10 (C) for wages or payments in lieu of wages for a
11 period during which an employee is absent from work because of
12 sickness or injury;

13 (D) as a supplement to a liability insurance
14 policy;

15 (E) for credit insurance;

16 (F) only for dental or vision care;

17 (G) only for hospital expenses; or

18 (H) only for indemnity for hospital confinement;

19 (2) a Medicare supplemental policy as defined by
20 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

21 (3) medical payment insurance coverage provided under
22 a motor vehicle insurance policy;

23 (4) a long-term care insurance policy, including a
24 nursing home fixed indemnity policy, unless the commissioner
25 determines that the policy provides benefit coverage so
26 comprehensive that the policy is a health benefit plan as described
27 by Section 1369.252; or

1 (5) a workers' compensation insurance policy.

2 Sec. 1369.254. STANDARD FORM. (a) The commissioner by rule
3 shall:

4 (1) prescribe a single, standard form for requesting
5 prior authorization of prescription drug benefits;

6 (2) require a health benefit plan issuer or the agent
7 of the health benefit plan issuer that manages or administers
8 prescription drug benefits to use the form for any prior
9 authorization of prescription drug benefits required by the plan;
10 and

11 (3) require that the department and a health benefit
12 plan issuer or the agent of the health benefit plan issuer that
13 manages or administers prescription drug benefits make the form
14 available electronically on the website of:

15 (A) the department;

16 (B) the health benefit plan issuer; and

17 (C) the agent of the health benefit plan issuer.

18 (b) Not later than the second anniversary of the date
19 national standards for electronic prior authorization of benefits
20 are adopted, a health benefit plan issuer or the agent of the health
21 benefit plan issuer that manages or administers prescription drug
22 benefits shall exchange prior authorization requests
23 electronically with a prescribing provider who has e-prescribing
24 capability and who initiates a request electronically.

25 (c) In prescribing a form under this section, the
26 commissioner shall:

27 (1) limit the form, as printed, to not more than two

1 pages;

2 (2) develop the form with input from the advisory
3 committee on uniform prior authorization forms established under
4 Section 1369.255; and

5 (3) take into consideration:

6 (A) any form for requesting prior authorization
7 of benefits that is widely used in this state or any form currently
8 used by the department;

9 (B) request forms for prior authorization of
10 benefits established by the federal Centers for Medicare and
11 Medicaid Services; and

12 (C) national standards, or draft standards,
13 pertaining to electronic prior authorization of benefits.

14 Sec. 1369.255. ADVISORY COMMITTEE ON UNIFORM PRIOR
15 AUTHORIZATION FORMS. (a) The commissioner shall appoint a
16 committee to advise the commissioner on the technical, operational,
17 and practical aspects of developing the single, standard prior
18 authorization form required under Section 1369.254 for requesting
19 prior authorization of prescription drug benefits.

20 (b) The commissioner shall consult the committee with
21 respect to any rule relating to a subject described by Section
22 1369.254 before adopting the rule and may consult the committee as
23 needed with respect to a subsequent amendment of an adopted rule.

24 (c) The committee shall be composed of an equal number of
25 members from each of the following groups:

26 (1) physicians;

27 (2) other prescribing health care providers;

1 (3) hospitals;

2 (4) pharmacists;

3 (5) specialty pharmacies;

4 (6) pharmacy benefit managers;

5 (7) health benefit plan issuers for the Texas Health
6 Insurance Pool established under Chapter 1506;

7 (8) health benefit plan issuers; and

8 (9) health benefit plan networks of providers.

9 (d) A member of the advisory committee serves without
10 compensation.

11 (e) Section 39.003(a) of this code and Chapter 2110,
12 Government Code, do not apply to the advisory committee.

13 Sec. 1369.256. FAILURE TO USE OR ACKNOWLEDGE STANDARD FORM.
14 If a health benefit plan issuer or the agent of the health benefit
15 plan issuer that manages or administers prescription drug benefits
16 fails to use or accept the form prescribed under this subchapter or
17 fails to acknowledge within two business days the receipt of a
18 completed form submitted by a prescribing provider, the prior
19 authorization is considered granted by the health benefit plan.

20 SECTION 2. Not later than September 1, 2015, the
21 commissioner of insurance by rule shall prescribe a standard form
22 under Section 1369.254, Insurance Code, as added by this Act.

23 SECTION 3. The change in law made by this Act applies only
24 to a request for prior authorization of prescription drug benefits
25 made on or after September 1, 2015. A request for prior
26 authorization of prescription drug benefits made before September
27 1, 2015, under a health benefit plan delivered, issued for

1 delivery, or renewed before that date is governed by the law in
2 effect immediately before the effective date of this Act, and that
3 law is continued in effect for that purpose.

4 SECTION 4. This Act takes effect September 1, 2013.