By: Bonnen of Galveston H.B. No. 1621

A BILL TO BE ENTITLED

AN ACT

relating to utilization review and notice and appeal of certain adverse determinations by utilization review agents.

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

SECTION 1. Section 4201.053, Insurance Code, is amended to read as follows:

Sec. 4201.053. MEDICAID AND [~~CERTAIN~~] OTHER STATE HEALTH OR MENTAL HEALTH PROGRAMS. (a) Except as provided by Section 4201.057, this chapter does not apply to:

(1) the state Medicaid program;

(2) the services program for children with special health care needs under Chapter 35, Health and Safety Code;

(3) a program administered under Title 2, Human Resources Code;

(4) a program of the Department of State Health Services relating to mental health services;

(5) a program of the Department of Aging and Disability Services relating to intellectual disability [~~mental retardation~~] services; or

(6) a program of the Texas Department of Criminal Justice.

(b) Sections 4201.304(b), 4201.3555, and 4201.404 do not apply to:

(1) the child health program under Chapter 62, Health

1 and Safety Code, or the health benefits plan for children under
2 Chapter 63, Health and Safety Code;
3 (2) the Employees Retirement System of Texas or
4 another entity issuing or administering a coverage plan under
5 Chapter 1551;
6 (3) the Teacher Retirement System of Texas or another
7 entity issuing or administering a plan under Chapter 1575 or 1579;
8 and
9 (4) The Texas A&M University System or The University
10 of Texas System or another entity issuing or administering coverage
11 under Chapter 1601.
12 SECTION 2. Section 4201.054, Insurance Code, is amended by
13 adding Subsection (b) to read as follows:
14 (b) Sections 4201.304(b), 4201.3555, and 4201.404 do not
15 apply to utilization review of a health care service provided to a
16 person eligible for workers' compensation benefits under Title 5,
17 Labor Code.
18 SECTION 3. Section 4201.304, Insurance Code, is amended to
19 read as follows:
20 Sec. 4201.304. TIME FOR NOTICE OF ADVERSE DETERMINATION.
21 (a) Subject to Subsection (b), a [A] utilization review agent shall
22 provide notice of an adverse determination required by this
23 subchapter as follows:
24 (1) with respect to a patient who is hospitalized at
25 the time of the adverse determination, within one working day by
26 either telephone or electronic transmission to the provider of
27 record, followed by a letter within three working days notifying

1 the patient and the provider of record of the adverse
2 determination;
3 (2) with respect to a patient who is not hospitalized
4 at the time of the adverse determination, within three working days
5 in writing to the provider of record and the patient; or
6 (3) within the time appropriate to the circumstances
7 relating to the delivery of the services to the patient and to the
8 patient's condition, provided that when denying poststabilization
9 care subsequent to emergency treatment as requested by a treating
10 physician or other health care provider, the agent shall provide
11 the notice to the treating physician or other health care provider
12 not later than one hour after the time of the request.
13 (b) A utilization review agent shall provide notice of an
14 adverse determination for a concurrent review of the provision of
15 prescription drugs or intravenous infusions not later than the 30th
16 day before the date on which the provision of prescription drugs or
17 intravenous infusions will be discontinued.
18 SECTION 4. Subchapter H, Chapter 4201, Insurance Code, is
19 amended by adding Section 4201.3555 to read as follows:
20 Sec. 4201.3555. CONTINUATION OF CONCURRENT PROVISION OF
21 PRESCRIPTION DRUGS OR INTRAVENOUS INFUSIONS. The procedures for
22 appealing an adverse determination for a concurrent review of the
23 provision of prescription drugs or intravenous infusions must
24 provide that:
25 (1) coverage or benefits for the contested
26 prescription drugs or intravenous infusions that are the basis of
27 the adverse determination continue under the enrollee's health

insurance policy or health benefit plan while the appeal is being considered to the same extent and in the same manner as if there had been no adverse determination;

(2) without regard to whether the adverse determination is upheld on appeal, the payor shall cover the contested prescription drugs or intravenous infusions received during the period the appeal was considered to the same extent and in the same manner, including the same benefit level, as if there had been no adverse determination; and

(3) without regard to whether the adverse determination is upheld on appeal, the payor may not recoup, based on an adverse determination, any payment made to a physician or health care provider for the continuation of coverage or benefits under Subdivision (1) or (2).

SECTION 5. Subchapter I, Chapter 4201, Insurance Code, is amended by adding Section 4201.404 to read as follows:

Sec. 4201.404. CONTINUATION OF CONCURRENT PROVISION OF PRESCRIPTION DRUGS OR INTRAVENOUS INFUSIONS. The procedures for an independent review of an appeal of an adverse determination for a concurrent review of the provision of prescription drugs or intravenous infusions must provide that:

(1) coverage or benefits for the contested prescription drugs or intravenous infusions that are the basis of the adverse determination continue under the enrollee's health insurance policy or health benefit plan while the review is being considered to the same extent and in the same manner as if there had been no adverse determination;

(2) without regard to whether the adverse determination is upheld on review, the payor shall cover the contested prescription drugs or intravenous infusions received during the period the review was considered to the same extent and in the same manner, including the same benefit level, as if there had been no adverse determination; and

(3) without regard to whether the adverse determination is upheld on review, the payor may not recoup, based on an adverse determination, any payment made to a physician or health care provider for the continuation of coverage or benefits under Subdivision (1) or (2).

SECTION 6. This Act applies only to an adverse determination made in relation to coverage or benefits under a health insurance policy or health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2016. An adverse determination made in relation to coverage or benefits under a policy or plan delivered, issued for delivery, or renewed before January 1, 2016, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2015.