

By: Eltife

S.B. No. 1649

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duties and powers of the office of public insurance
3 counsel concerning the adequacy of networks offered in this state
4 by managed care plans.

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

6 SECTION 1. Section 501.001, Insurance Code, is amended to
7 read as follows:

8 Sec. 501.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

9 (1) "Managed care plan" means:

10 (A) a health maintenance organization plan
11 provided under Chapter 843;

12 (B) a preferred provider benefit plan, as defined
13 by Section 1301.001; or

14 (C) an exclusive provider benefit plan, as
15 defined by Section 1301.001.

16 (2) "Office" [~~,"office"~~] means the office of public
17 insurance counsel.

18 SECTION 2. Section 501.151, Insurance Code, is amended to
19 read as follows:

20 Sec. 501.151. POWERS AND DUTIES OF OFFICE. The office:

21 (1) may assess the impact of insurance rates, rules,
22 and forms on insurance consumers in this state; [~~and~~]

23 (2) shall advocate in the office's own name positions
24 determined by the public counsel to be most advantageous to a

1 substantial number of insurance consumers;

2 (3) shall monitor the adequacy of networks offered by
3 managed care plans in this state; and

4 (4) may advocate for consumers in the office's own
5 name:

6 (A) positions to strengthen the overall adequacy
7 or oversight of networks offered by managed care plans in this
8 state; and

9 (B) positions to strengthen the adequacy or
10 oversight of a particular network offered by a managed care plan in
11 this state, including by:

12 (i) opposing, at the public counsel's
13 discretion, the department's approval of a managed care plan's
14 filing, application, or request related to the adequacy of a
15 network offered by the managed care plan in this state, including
16 any filings, applications, and requests related to access plans or
17 waivers of network adequacy requirements, when applicable; and

18 (ii) filing complaints with the department
19 regarding the failure of a particular managed care plan to satisfy
20 applicable network adequacy requirements, including requirements
21 to maintain accurate provider network directories.

22 SECTION 3. Section 501.153, Insurance Code, is amended to
23 read as follows:

24 Sec. 501.153. AUTHORITY TO APPEAR, INTERVENE, OR INITIATE.

25 (a) The public counsel:

26 (1) may appear or intervene, as a party or otherwise,
27 as a matter of right before the commissioner or department on behalf

1 of insurance consumers, as a class, in matters involving:

2 (A) rates, rules, and forms affecting:

3 (i) property and casualty insurance;

4 (ii) title insurance;

5 (iii) credit life insurance;

6 (iv) credit accident and health insurance;

7 or

8 (v) any other line of insurance for which

9 the commissioner or department promulgates, sets, adopts, or
10 approves rates, rules, or forms;

11 (B) rules affecting life, health, or accident
12 insurance; or

13 (C) withdrawal of approval of policy forms:

14 (i) in proceedings initiated by the
15 department under Sections [1701.055](#) and [1701.057](#); or

16 (ii) if the public counsel presents
17 persuasive evidence to the department that the forms do not comply
18 with this code, a rule adopted under this code, or any other law;

19 (2) may initiate or intervene as a matter of right or
20 otherwise appear in a judicial proceeding involving or arising from
21 an action taken by an administrative agency in a proceeding in which
22 the public counsel previously appeared under the authority granted
23 by this chapter;

24 (3) may appear or intervene, as a party or otherwise,
25 as a matter of right on behalf of insurance consumers as a class in
26 any proceeding in which the public counsel determines that
27 insurance consumers are in need of representation, except that the

1 public counsel may not intervene in an enforcement or parens
2 patriae proceeding brought by the attorney general; ~~and~~

3 (4) may appear or intervene before the commissioner or
4 department as a party or otherwise on behalf of small commercial
5 insurance consumers, as a class, in a matter involving rates,
6 rules, or forms affecting commercial insurance consumers, as a
7 class, in any proceeding in which the public counsel determines
8 that small commercial consumers are in need of representation;

9 (5) may appear or intervene in a proceeding or hearing
10 before the commissioner or department as a party or otherwise on
11 behalf of consumers, as a class, in a matter relating to the
12 adequacy of a network offered by a managed care plan; and

13 (6) may file objections and request a hearing, to be
14 granted in the sole discretion of the commissioner, regarding any
15 application, filing, or request that a managed care plan files with
16 the department related to an access plan or waiver of a network
17 adequacy requirement.

18 (b) To assist the office in determining whether to request a
19 hearing under Subsection (a)(6), a managed care plan must file with
20 the office, at the same time that it makes such filing with the
21 department, a copy of:

22 (1) any network adequacy waiver request, application,
23 or filing, including any attachments or supporting documentation;
24 or

25 (2) any access plan filing, request, or application,
26 including any attachments or supporting documentation.

27 (c) Nothing in this chapter may be construed as authorizing

1 a managed care plan to request a waiver of network adequacy
2 requirements or to use an access plan unless otherwise authorized
3 by law or regulation.

4 SECTION 4. Section 501.154, Insurance Code, is amended to
5 read as follows:

6 Sec. 501.154. ACCESS TO INFORMATION. The public counsel:

7 (1) is entitled to the same access as a party, other
8 than department staff, to department records available in a
9 proceeding before the commissioner or department under the
10 authority granted to the public counsel by this chapter; ~~and~~

11 (2) is entitled to obtain discovery under Chapter
12 2001, Government Code, of any nonprivileged matter that is relevant
13 to the subject matter involved in a proceeding or submission before
14 the commissioner or department as authorized by this chapter; and

15 (3) is entitled to all filings, including any
16 attachments and supporting documentation, made by a managed care
17 plan relating to the adequacy of a network offered by the plan.

18 SECTION 5. Section 501.157, Insurance Code, is amended to
19 read as follows:

20 Sec. 501.157. PROHIBITED INTERVENTIONS OR APPEARANCES.
21 Except as otherwise provided by this code, the [The] public counsel
22 may not intervene or appear in:

23 (1) any proceeding or hearing before the commissioner
24 or department, or any other proceeding, that relates to approval or
25 consideration of an individual charter, license, certificate of
26 authority, acquisition, merger, or examination; or

27 (2) any proceeding concerning the solvency of an

1 individual insurer, a financial issue, a policy form, advertising,
2 or another regulatory issue affecting an individual insurer or
3 agent.

4 SECTION 6. Section 501.159(a), Insurance Code, is amended
5 to read as follows:

6 (a) Notwithstanding this chapter, the office may submit
7 written comments to the commissioner and otherwise participate
8 regarding individual insurer filings:

9 (1) made under Chapters 2251 and 2301 relating to
10 insurance described by Subchapter B, Chapter 2301; or

11 (2) relating to the adequacy of a network offered by a
12 managed care plan.

13 SECTION 7. Subchapter D, Chapter 501, Insurance Code, is
14 amended by adding Section 501.161 to read as follows:

15 Sec. 501.161. COMPLAINTS. (a) The office may file a
16 complaint with the department on discovering that a managed care
17 plan:

18 (1) is operating, has operated, or is seeking to
19 operate with an inadequate network in this state;

20 (2) potentially is in violation of, has been in
21 violation of, or seeks to operate in violation of a network adequacy
22 law or regulation in this state; or

23 (3) potentially has an inaccurate provider network
24 directory.

25 (b) The department shall keep an information file about each
26 complaint filed with the department by the office under this
27 section.

1 exclusive provider benefit plans.

2 (c) In developing the system, the office may use information
3 or data from a person, agency, organization, or governmental unit
4 that the office considers reliable.

5 SECTION 10. Section 501.252, Insurance Code, is amended to
6 read as follows:

7 Sec. 501.252. ANNUAL CONSUMER REPORT CARDS. (a) The office
8 shall develop and issue annual consumer report cards that identify
9 and compare, on an objective basis, managed care plans [~~health~~
10 ~~maintenance organizations in this state~~].

11 (b) The consumer report cards required by Subsection (a)
12 shall:

13 (1) include comparisons of types of managed care plans
14 in the same manner as provided by Section 501.251(b);

15 (2) include information, evaluations, and comparisons
16 regarding the adequacy of networks offered by the particular type
17 of managed care plan that is the subject of a consumer report card;
18 and

19 (3) at the discretion of the office, be staggered for
20 release throughout the year based on the type of managed care plan
21 that is the subject of the consumer report card.

22 (c) Notwithstanding Subsection (b)(3), all consumer report
23 cards for a particular type of managed care plan must be released at
24 the same time.

25 (d) The consumer report cards may be based on information or
26 data from any person, agency, organization, or governmental unit
27 that the office considers reliable.

1 (e) Notwithstanding Subsection (d), in developing the
2 information required under Subsection (b)(2), the office may use
3 information or data that is self-reported to the department or to
4 the public by a managed care plan.

5 (f) [~~(b)~~] The office may not endorse or recommend a specific
6 managed care [~~health maintenance organization or~~] plan, or
7 subjectively rate or rank managed care [~~health maintenance~~
8 ~~organizations or~~] plans or managed care plan issuers, other than
9 through comparison and evaluation of objective criteria.

10 (g) [~~(c)~~] The office shall provide a copy of any consumer
11 report card on request on payment of a reasonable fee.

12 SECTION 11. It is the intent of the legislature to provide
13 the office of public insurance counsel with the flexibility to
14 establish a timeline for the implementation, development, and
15 initial issuance of annual consumer report cards under Section
16 [501.252](#), Insurance Code, as amended by this Act, in a manner that
17 best uses current office of public insurance counsel resources.

18 SECTION 12. This Act takes effect September 1, 2015.