

BILL ANALYSIS

S.B. 1096
By: Perry
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that certain drugs on the centralized Medicaid formulary may require prior authorization and that pharmacy prior authorization services for Medicaid enrollees are administered by the managed care organization. There are concerns that the ability for managed care organizations and pharmacy benefit managers to add their own clinical edits, clinical authorizations, cost ceilings, and other additional requirements causes unnecessary and harmful denials of medications and delays access to medications that could be administered at home or in an outpatient setting. S.B. 1096 seeks to address this issue by providing requirements for managed care organizations or pharmacy benefit managers in relation to certain pharmacy benefits provided to certain children through Medicaid.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

S.B. 1096 amends the Government Code to revise the required contents of the Medicaid managed care contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) to provide that, as part of the required outpatient pharmacy benefit plan provided by the MCO as part of the contract, the MCO or pharmacy benefit manager, as applicable:

- may not require a prior authorization, other than a clinical prior authorization or a prior authorization imposed by HHSC to minimize the opportunity for waste, fraud, or abuse, for or impose any other barriers to a drug that is prescribed to a child enrolled in the STAR Kids managed care program for a particular disease or treatment and that is on the vendor drug program formulary or require additional prior authorization for a drug included in the preferred drug list adopted by HHSC;
- must provide for continued access to a drug prescribed to a child enrolled in the STAR Kids managed care program, regardless of whether the drug is on an applicable formulary;
- may not use a protocol that requires a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than the drug that the child's physician recommends for the child's treatment before the MCO provides coverage for the recommended drug; and
- must pay liquidated damages to HHSC for each failure, as determined by HHSC, to comply with these provisions in an amount that is a reasonable forecast of the damages

caused by the noncompliance.

S.B. 1096 requires HHSC, at least once every two years, to conduct a utilization review on a sample of cases for children enrolled in the STAR Kids managed care program to ensure that all imposed clinical prior authorizations are based on publicly available clinical criteria and are not being used to negatively impact a recipient's access to care. The bill establishes that HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and if not, that HHSC may, but is not required to, implement such a provision using other appropriations available for that purpose.

EFFECTIVE DATE

September 1, 2019.