

SENATE AMENDMENTS

2nd Printing

By: McCall

H.B. No. 2000

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for certain amino acid-based elemental formulas.

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

SECTION 1. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1377 to read as follows:

CHAPTER 1377. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL FORMULAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1377.001. DEFINITION. In this chapter, "enrollee" means an individual entitled to coverage under a health benefit plan.

Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, 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 an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating

1 under Chapter 842;

2 (3) a fraternal benefit society operating under
3 Chapter 885;

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

6 (5) an exchange operating under Chapter 942;

7 (6) a Lloyd's plan operating under Chapter 941;

8 (7) a health maintenance organization operating under
9 Chapter 843;

10 (8) a multiple employer welfare arrangement that holds
11 a certificate of authority under Chapter 846; or

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

14 (b) Notwithstanding any provision in Chapter 1551, 1575,
15 1579, or 1601 or any other law, this chapter applies to:

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

17 (2) a basic plan under Chapter 1575;

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

19 and

20 (4) basic coverage under Chapter 1601.

21 Sec. 1377.003. EXCEPTION. This chapter does not apply to:

22 (1) a plan that provides coverage:

23 (A) only for benefits for a specified disease or
24 for another limited benefit, other than a plan that provides
25 benefits for a disease or disorder listed in Section 1377.051(a);

26 (B) only for accidental death or dismemberment;

27 (C) for wages or payments in lieu of wages for a

1 period during which an employee is absent from work because of
2 sickness or injury;

3 (D) as a supplement to a liability insurance
4 policy;

5 (E) only for dental or vision care; or

6 (F) only for indemnity for hospital confinement;

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

9 (3) a workers' compensation insurance policy;

10 (4) medical payment insurance coverage provided under
11 an automobile insurance policy;

12 (5) a credit insurance policy;

13 (6) a limited benefit policy that does not provide
14 coverage for physical examinations or wellness exams; or

15 (7) a long-term care insurance policy, including a
16 nursing home fixed indemnity policy, unless the commissioner
17 determines that the policy provides benefit coverage so
18 comprehensive that the policy is a health benefit plan as described
19 by Section 1377.002.

20 [Sections 1377.004-1377.050 reserved for expansion]

21 SUBCHAPTER B. COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL
22 FORMULAS

23 Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN AMINO
24 ACID-BASED ELEMENTAL FORMULAS. (a) A health benefit plan must
25 provide coverage as provided by this chapter for amino acid-based
26 elemental formulas, regardless of the formula delivery method, that
27 are used for the diagnosis and treatment of:

1 (1) immunoglobulin E and non-immunoglobulin E
2 mediated allergies to multiple food proteins;

3 (2) severe food protein-induced enterocolitis
4 syndrome;

5 (3) eosinophilic disorders, as evidenced by the
6 results of a biopsy; and

7 (4) impaired absorption of nutrients caused by
8 disorders affecting the absorptive surface, functional length, and
9 motility of the gastrointestinal tract.

10 (b) Subject to Subsection (c), the coverage required under
11 Subsection (a) is required if the treating physician has issued a
12 written order stating that the amino acid-based elemental formula
13 is medically necessary for the treatment of an enrollee who is
14 diagnosed with a disease or disorder listed in Subsection (a). The
15 coverage must include coverage of any medically necessary services
16 associated with the administration of the formula.

17 (c) A health benefit plan must provide the coverage
18 described by Subsection (a) on a basis no less favorable than the
19 basis on which prescription drugs and other medications and related
20 services are covered by the plan, and to the same extent that the
21 plan provides coverage for drugs that are available only on the
22 orders of a physician.

23 Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization review
24 agent acting on behalf of a health benefit plan issuer may review a
25 treating physician's determination of the medical necessity of the
26 use of an amino acid-based elemental formula for the treatment of an
27 enrollee who is diagnosed with a disease or disorder listed in

1 Section 1377.051(a).

2 (b) Utilization review under this section is subject to
3 Chapter 4201.

4 SECTION 2. Chapter 1377, Insurance Code, as added by this
5 Act, applies only to a health benefit plan that is delivered, issued
6 for delivery, or renewed on or after January 1, 2010. A health
7 benefit plan that is delivered, issued for delivery, or renewed
8 before January 1, 2010, is covered by the law in effect at the time
9 the plan was delivered, issued for delivery, or renewed, and that
10 law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Antony Spadaro
Secretary of the Senate

*Zaffinani and
Thomke & Dutton*

FLOOR AMENDMENT NO. 1

BY: _____

1 Amend H.B. 2000 as follows by adding the following new
2 sections and renumbering subsequent sections appropriately:

3 SECTION ____ Subdivisions (1) and (2), Section 1358.051,
4 Insurance Code, are amended to read as follows:

5 (1) "Diabetes equipment" means:

6 (A) blood glucose monitors, including
7 noninvasive glucose monitors and glucose monitors designed to be
8 used by blind individuals;

9 (B) insulin pumps and associated appurtenances;

10 (C) insulin infusion devices and devices that
11 facilitate insulin therapy and enhance glucose control; and

12 (D) podiatric appliances for the prevention of
13 complications associated with diabetes.

14 (2) "Diabetes supplies" means:

15 (A) test strips for blood glucose monitors;

16 (B) visual reading and urine test strips;

17 (C) lancets and lancet devices;

18 (D) insulin and insulin analogs;

19 (E) injection aids and devices that facilitate
20 insulin therapy and enhance glucose control;

21 (F) syringes;

22 (G) prescriptive and nonprescriptive oral agents

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1 for controlling blood sugar levels; and

2 (H) glucagon emergency kits.

3 SECTION _____. This Act applies only to an insurance policy
4 that is delivered, issued for delivery, or renewed on or after
5 January 1, 2010. A policy delivered, issued for delivery, or
6 renewed before January 1, 2010, is governed by the law as it
7 existed immediately before the effective date of this Act, and
8 that law is continued in effect for that purpose.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2000 by McCall (Relating to health benefit plan coverage for certain amino acid-based elemental formulas.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code by adding Chapter 1377, which would require health insurance plans to provide coverage to enrollees for amino acid-based elemental formulas for certain diagnosed conditions regardless of the formula delivery method.

The University of Texas System Administration and the Employee Retirement System indicate that there will be a cost to adding this coverage in each agency's health plans. These costs are expected to be absorbed within existing resources. Based on analysis provided by the Texas A&M University System Administration, it is assumed that the bill would not affect the agency's health insurance plans and therefore does not have a fiscal impact. The Teacher Retirement System indicates that there will be additional costs to the agency's health care plans to provide this coverage, but that the cost can be absorbed within existing resources.

Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$34,000 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in additional form filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

Additionally, the bill would amend the Section 1358.051 of the Insurance Code to expand health insurance plan coverage to include certain devices that facilitate insulin therapy and enhance glucose control in the treatment of diabetes. Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$26,500 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in filings of amendments to reflect this change of law by insurers. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all general revenue would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

The bill would take effect September 1, 2009, and would apply to all health plans delivered or renewed on or after January 1, 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, CH, JW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2000 by McCall (Relating to health benefit plan coverage for certain amino acid-based elemental formulas.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code to require health insurance plans to provide coverage to enrollees for amino acid-based elemental formulas for certain diagnosed conditions regardless of the formula delivery method.

The University of Texas System Administration and the Employee Retirement System indicate that there will be a cost to adding this coverage in each agency's health plans. These costs are expected to be absorbed within existing resources.

Based on analysis provided by the Texas A&M University System Administration, it is assumed that the bill would not affect the agency's health insurance plans and therefore does not have a fiscal impact.

The Teacher Retirement System indicates that there will be additional costs to the agency's health care plans to provide this coverage, but that the cost can be absorbed within existing resources.

Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$34,000 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in additional form filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, CH, JW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 23, 2009

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2000 by McCall (Relating to health benefit plan coverage for certain amino acid-based elemental formulas.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code to require health insurance plans to provide coverage to enrollees for amino acid-based elemental formulas for certain diagnosed conditions regardless of the formula delivery method.

The University of Texas System Administration and the Employee Retirement System indicate that there will be a cost to adding this coverage in each agency's health plans. These costs are expected to be absorbed within existing resources.

Based on analysis provided by the Texas A&M University System Administration, it is assumed that the bill would not affect the agency's health insurance plans and therefore does not have a fiscal impact.

The Teacher Retirement System indicates that there will be additional costs to the agency's health care plans to provide this coverage, but that the cost can be absorbed within existing resources.

Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$34,000 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in additional form filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, CH, JW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2000 by McCall (Relating to health benefit plan coverage for certain amino acid-based elemental formulas.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code to require health insurance plans to provide coverage to enrollees for amino acid-based elemental formulas for certain diagnosed conditions regardless of the formula delivery method.

The University of Texas System Administration and the Employee Retirement System indicate that there will be a cost to adding this coverage in each agency's health plans. These costs are expected to be absorbed within existing resources.

Based on analysis provided by the Texas A&M University System Administration, it is assumed that the bill would not affect the agency's health insurance plans and therefore does not have a fiscal impact.

The Teacher Retirement System indicates that there will be additional costs to the agency's health care plans to provide this coverage, but that the cost can be absorbed within existing resources.

Based on the analysis of the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of \$34,000 in the General Revenue Dedicated Account Fund 36 in fiscal year 2010 because the bill would result in additional form filings. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, CH, JW

