By: Bonnen of Galveston (Senate Sponsor - Seliger) H.B. No. 1621

(In the Senate - Received from the House May 6, 2015; May 11, 2015, read first time and referred to Committee on Business and Commerce; May 22, 2015, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 22, 2015, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Eltife	X			
Creighton	X			
Ellis	X			
Huffines	X			
Schwertner			X	
Seliger	X			
Taylor of Galveston	X			
Watson	X			
Whitmire	X			

COMMITTEE SUBSTITUTE FOR H.B. No. 1621 By: Seliger

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 4201.303(c), 4201.304(b), 4201.357(a-1), and 4201.3601 do not apply to:

(1) the child health program under Chapter 62, Health and Safety Code, or the health benefits plan for children under Chapter 63, Health and Safety Code;

(2) the Employees Retirement System of Texas or another entity issuing or administering a coverage plan under Chapter 1551;

(3) the Teacher Retirement System of Texas or another entity issuing or administering a plan under Chapter 1575 or 1579;

(4) The Texas A&M University System or The University of Texas System or another entity issuing or administering coverage under Chapter 1601; and

(5) a managed care organization providing a Medicaid managed care plan under Chapter 533, Government Code.

SECTION 2. Section 4201.054, Insurance Code, is amended by adding Subsection (b) to read as follows:

(b) Sections 4201.303(c), 4201.304(b), 4201.357(a-1), and 4201.3601 do not apply to utilization review of a health care service provided to a person eligible for workers' compensation

benefits under Title 5, Labor Code.

SECTION 3. Section 4201.303, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) For an enrollee who is denied the provision of prescription drugs or intravenous infusions for which the patient is receiving benefits under the health insurance policy, the notice required by Subsection (a)(4) must include a description of the enrollee's right to an immediate review by an independent review organization and of the procedures to obtain that review.

SECTION 4. Section 4201.304, Insurance Code, is amended to read as follows:

Sec. 4201.304. TIME FOR NOTICE OF ADVERSE DETERMINATION. (a) Subject to Subsection (b), a [~~A~~] utilization review agent shall provide notice of an adverse determination required by this subchapter as follows:

(1) with respect to a patient who is hospitalized at the time of the adverse determination, within one working day by either telephone or electronic transmission to the provider of record, followed by a letter within three working days notifying the patient and the provider of record of the adverse determination;

(2) with respect to a patient who is not hospitalized a the time of the adverse determination, within three working days in writing to the provider of record and the patient; or

(3) within the time appropriate to the circumstances relating to the delivery of the services to the patient and to the patient's condition, provided that when denying poststabilization care subsequent to emergency treatment as requested by a treating physician or other health care provider, the agent shall provide the notice to the treating physician or other health care provider not later than one hour after the time of the request.

(b) A utilization review agent shall provide notice of an adverse determination for a concurrent review of the provision of prescription drugs or intravenous infusions for which the patient is receiving health benefits under the health insurance policy not later than the 30th day before the date on which the provision of prescription drugs or intravenous infusions will be discontinued.

SECTION 5. The heading to Section 4201.357, Insurance Code, is amended to read as follows:

Sec. 4201.357. EXPEDITED APPEAL FOR DENIAL OF EMERGENCY CARE, [~~OR~~] CONTINUED HOSPITALIZATION, PRESCRIPTION DRUGS OR INTRAVENOUS INFUSIONS.

SECTION 6. Section 4201.357, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The procedures for appealing an adverse determination must include, in addition to the written appeal and the appeal described by Subsection (a), a procedure for an expedited appeal of a denial of prescription drugs or intravenous infusions for which the patient is receiving benefits under the health insurance policy. That procedure must include a review by a health care provider who:

(1) has not previously reviewed the case; and

(2) is of the same or a similar specialty as the health care provider who would typically manage the medical or dental condition, procedure, or treatment under review in the appeal.

SECTION 7. Subchapter H, Chapter 4201, Insurance Code, is amended by adding Section 4201.3601 to read as follows:

Sec. 4201.3601. IMMEDIATE APPEAL TO INDEPENDENT REVIEW ORGANIZATION FOR DENIAL OF PRESCRIPTION DRUGS OR INTRAVENOUS INFUSIONS. Notwithstanding any other law, in a circumstance involving the provision of prescription drugs or intravenous infusions for which the patient is receiving benefits under the health insurance policy, the enrollee is:

(1) entitled to an immediate appeal to an independent review organization as provided by Subchapter I; and

(2) not required to comply with procedures for an internal review of the utilization review agent's adverse determination.

SECTION 8. Section 4202.003, Insurance Code, is amended to

read as follows:

Sec. 4202.003. REQUIREMENTS REGARDING TIMELINESS OF DETERMINATION. The standards adopted under Section 4202.002 must require each independent review organization to make the organization's determination:

(1) for a life-threatening condition as defined by Section 4201.002 or the provision of prescription drugs or intravenous infusions for which the patient is receiving benefits under the health insurance policy, not later than the earlier of the third day after the date the organization receives the information necessary to make the determination or, with respect to:

(A) a review of a health care service provided to a person with a life-threatening condition eligible for workers' compensation medical benefits, the eighth day after the date the organization receives the request that the determination be made; or

(B) a review of a health care service other than a service described by Paragraph (A), the third day after the date the organization receives the request that the determination be made; or

(2) for a situation [~~condition~~] other than a situation described by Subdivision (1) [~~life-threatening condition~~], not later than the earlier of:

(A) the 15th day after the date the organization receives the information necessary to make the determination; or

(B) the 20th day after the date the organization receives the request that the determination be made.

SECTION 9. 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 10. This Act takes effect September 1, 2015.

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