HOUSE
RESEARCH
ORGANIZATION
Texas House of Representatives

focus REPORT

January 29, 2003

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Mandated Health Benefits: History and Controversy

Conflicts between adequacy and affordability of health insurance often force lawmakers to weigh the benefits of a certain treatment against the projected cost. At the heart of these conflicts lie issues related to mandated benefits — statutory requirements for health insurers to cover certain treatments and services.

Texas law mandates the inclusion of many specific treatments or services in health insurance policies regulated by the state. (See table, page 3.) The number of these mandates depends on how they are counted; one study estimates as many as 63 mandates. Each treatment and service was added to law separately, and the evaluation in each enacting bill was based on that particular service's cost-effectiveness and value to beneficiaries' health.

For example, in considering SB 172 by Zaffirini, the 75th Legislature in 1997 debated the merits of requiring insurers to pay for the standard immunization regimen for children below age six. Supporters of that mandate said it would give parents an incentive to have their children immunized and would equalize benefits for all children insured by plans that the state regulates. Opponents argued that mandating that benefit could raise the cost of premiums and make coverage too expensive for some employers. In the end, the bill passed both the House and Senate and became law.

The debate over mandated benefits revolves around their effect on the affordability of health insurance and on the number of uninsured people in Texas.

Legislative studies have evaluated whether mandated benefits affect the affordability of health insurance and the number of uninsured people in Texas, but the results have proved inconclusive. As required by law, the Texas Department of Insurance (TDI) is working to adopt rules that would require health maintenance organizations and other regulated carriers to disclose information about the number and amount of claims paid that relate to mandated

benefits and the portion of annual premiums attributable to the mandates. Although TDI expects to publish this information no earlier than March 2004, the 78th Legislature in 2003 is likely to debate the issue further.

Past evaluation efforts

In 1993, the Legislature created the Mandated Benefit Review Panel to review existing and proposed mandates but provided no funding for primary research. The panel, comprising three researchers appointed by the insurance commissioner, established a review process but performed only one review of an existing mandated benefit to demonstrate the complexity of the process.

During the 1995 and 1997 sessions, lawmakers referred six mandated-benefits bills to the panel, which reviewed three of the bills. According to a TDI report, significant confusion existed about the panel's role in the legislative process. Also, the panel's enabling legislation required that the review be performed within 30 days, a time constraint that the panel found difficult to meet, especially late in the session. In 1999, the 76th Legislature repealed the panel's enabling legislation but enacted HB 1919 by Gallego, directing the lieutenant governor and House speaker to appoint a joint interim committee to study the impact of mandated benefits on the cost and accessibility of health benefit coverage.

In 2000, the interim committee held public hearings and commissioned a study by Milliman & Robertson (M&R), an actuarial firm that specializes in insurance, to evaluate the impact of 13 mandated benefits. Although the results of the hearings were largely inconclusive, the M&R study found that no single benefit accounted for a significant portion of premiums for group insurance. In regard to expense only, the 13 benefits together accounted for less than 8 percent of premiums for large groups.

The study found that failure to offer the benefits would diminish an insured person's health status, but that insurers likely would offer the benefits even if they were not mandated. Self-funded employers, not regulated by the state and not required to offer the same set of benefits, generally included some coverage for each of the mandated benefits, though sometimes at lower levels. The study concluded that the direct cost of the mandates is less than the indirect costs associated with not offering them and that eliminating mandates would have little impact on the number of uninsured in Texas.

The interim committee recommended that the Legislative Budget Board (LBB) evaluate the impact of proposed mandated benefits by using a scoring system based on Employees Retirement System data and that the Legislature direct TDI to develop a reporting system by which the state could obtain insurance data related to mandated benefits. These recommendations became the basis for two bills in the 2001 session. HB 3444 by Gallego, which would have codified the recommendations regarding the evaluation system, passed the House but died in the Senate Business and Commerce Committee. However, lawmakers enacted HB 1610 by Averitt, requiring health insurers to disclose cost and utilization data for each mandated health benefit and requiring TDI to adopt rules for collecting the data.

Issues for the 78th Legislature

Even though TDI will not publish the data it is collecting until 2004, the 78th Legislature may debate the merits of mandated benefits and their effect on insurance affordability. Some insurers would like to be able to offer policies without some of the mandated benefits at a reduced cost. They argue that the current package of mandated benefits may prevent some employers from offering coverage or may make individual policies too expensive for some families. Insurers contend that they could offer stripped-down policies at a lower price, making health insurance more affordable for some people.

In the absence of data establishing a strong link between mandates and premium pricing, supporters of the current set of mandated benefits say the state should not change the current mandates, which they contend are necessary to maintain minimum standards in health insurance coverage. They say the appropriate time to review each of the mandates is after the state has collected enough information on which to base a decision.

Both sides agree that the state should establish a process for evaluating proposed mandated benefits on a consistent basis to ensure that the mandates are cost-effective. For example, the Joint Interim Committee on Mandated Benefits in 2000 recommended that LBB could assess the impact of proposed mandates while the Sunset Advisory Commission could review enacted mandates.

— by Kelli Soika

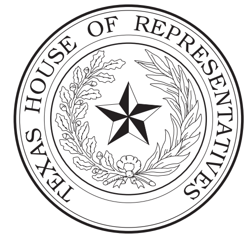
Mandated Health Benefits in Texas Law

	Mandate applies to:		
	Group policies	HMOs	Individual plans
Access to specialty treatment facilities			
Chemical dependency treatment facilities	X		
Crisis stabilization units, residential treatment centers for children and adolescents	X	X	
Obstetrician/gynecologist services	X	X	X
Psychiatric day treatment facilities	X	X	
Public institutions			X
Coverage for specific diseases, conditions, or services			
Chemical dependency (drug and alcohol)	X		
Childhood immunizations	X	X	X
Diabetes	X	X	X
Home health	X		
HIV, AIDS, and HIV-related illnesses	X		X
In-vitro fertilization	X		
Mammography screening	X		X
Mastectomy hospital stays and reconstructive surgery	X	X	X
Maternity benefits			X
Maternity stay	X	X	X
Mental health	X		
Oral contraceptives	X	X	X
Phenylketonuria	X	X	
Pre-existing conditions upon replacement	X		
Pregnancy benefits			X
Pregnancy complications	X		X
Prostate tests	X	X	X
Serious mental illness	X		
Speech and hearing	X		
Telemedicine	X	X	X
Temporomandibular joint	X	X	X
Transplant donors			X
Coverage of specific groups			
Adopted children	X		X
Certain grandchildren	X		X
Certain students	X	X	
Continuation of coverage after divorce			X
Continuation of coverage for certain dependents	X		
Continuation of coverage during labor disputes	X		
Handicapped dependent	X		
Newborn children	X	X	X

Access to practitioners

State law requires group policies, HMOs, and individual plans to provide access to the following practitioners: podiatrists, optometrists, chiropractors, dentists, audiologists, speech-language pathologists, master social workers, dieticians, professional counselors, psychologists and psychological associates, marriage and family therapists, chemical dependency counselors, hearing aid fitters and dispensers, occupational therapists, physical therapists, advance practice nurses, and physician assistants.

Source: Texas Comptroller of Public Accounts, E-Texas: Smaller, Smarter, Faster Government*, December 2000. Based on J. Allen Seward and James W. Henderson, "Report on the Cost of Health Care System Mandates," Baylor University, 1999.*



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