

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2009

Date


Honorable David Dewhurst
President of the Senate

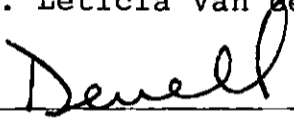
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 2000 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

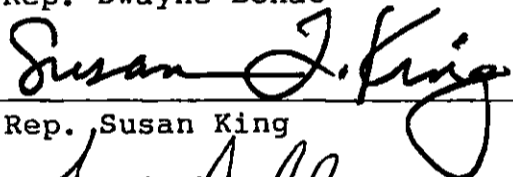

Sen. Leticia Van de Putte (Chair)


Rep. Brian McCall (Chair)


Sen. Bob Deuell


Rep. Dwayne Bohac

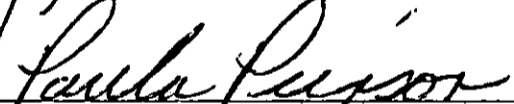
Sen. Robert Duncan


Rep. Susan King


Sen. Kirk Watson


Rep. Jerry Madden


On the part of the Senate
Sen. Judith Zaffirini


On the part of the House
Rep. Paula Pierson

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H. B. No. 2000

1 A BILL TO BE ENTITLED

2 AN ACT

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

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

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

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

10 SUBCHAPTER A. GENERAL PROVISIONS

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

14 Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) This
15 chapter applies only to a health benefit plan, including a small
16 employer health benefit plan written under Chapter 1501 or
17 coverage provided by a health group cooperative under Subchapter
18 B of that chapter, that provides benefits for medical or
19 surgical expenses incurred as a result of a health condition,
20 accident, or sickness, including an individual, group, blanket,
21 or franchise insurance policy or insurance agreement, a group
22 hospital service contract, or an individual or group evidence of
23 coverage or similar coverage document that is offered by:

24 (1) an insurance company;

25 (2) a group hospital service corporation operating
26 under Chapter 842;

27 (3) a fraternal benefit society operating under

1 Chapter 885;

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

4 (5) an exchange operating under Chapter 942;

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

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

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

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

12 (b) Notwithstanding any provision in Chapter 1551, 1575,
13 1579, or 1601 or any other law, this chapter applies to:

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

15 (2) a basic plan under Chapter 1575;

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

17 and

18 (4) basic coverage under Chapter 1601.

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

20 (1) a plan that provides coverage:

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

25 (B) only for accidental death or dismemberment;

26 (C) for wages or payments in lieu of wages for a
27 period during which an employee is absent from work because of
28 sickness or injury;

29 (D) as a supplement to a liability insurance
30 policy;

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

1 and motility of the gastrointestinal tract.

2 (b) Subject to Subsection (c), the coverage required under
3 Subsection (a) is required if the treating physician has issued
4 a written order stating that the amino acid-based elemental
5 formula is medically necessary for the treatment of an enrollee
6 who is diagnosed with a disease or disorder listed in Subsection
7 (a). The coverage must include coverage of any medically
8 necessary services associated with the administration of the
9 formula.

10 (c) A health benefit plan must provide the coverage
11 described by Subsection (a) on a basis no less favorable than
12 the basis on which prescription drugs and other medications and
13 related services are covered by the plan, and to the same extent
14 that the plan provides coverage for drugs that are available
15 only on the orders of a physician.

16 Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization
17 review agent acting on behalf of a health benefit plan issuer
18 may review a treating physician's determination of the medical
19 necessity of the use of an amino acid-based elemental formula
20 for the treatment of an enrollee who is diagnosed with a disease
21 or disorder listed in Section 1377.051(a).

22 (b) Utilization review under this section is subject to
23 Chapter 4201.

24 SECTION 2. Chapter 1377, Insurance Code, as added by this
25 Act, applies only to a health benefit plan that is delivered,
26 issued for delivery, or renewed on or after January 1, 2010. A
27 health benefit plan that is delivered, issued for delivery, or
28 renewed before January 1, 2010, is covered by the law in effect
29 at the time the plan was delivered, issued for delivery, or
30 renewed, and that law is continued in effect for that purpose.

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

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Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Subdivisions (1) and (2), Section 1358.051, Insurance Code, are amended to read as follows:

Same as House version.

- (1) "Diabetes equipment" means:
- (A) blood glucose monitors, including noninvasive glucose monitors and glucose monitors designed to be used by blind individuals;
 - (B) insulin pumps and associated appurtenances;
 - (C) insulin infusion devices and devices that facilitate insulin therapy and enhance glucose control; and
 - (D) podiatric appliances for the prevention of complications associated with diabetes.
- (2) "Diabetes supplies" means:
- (A) test strips for blood glucose monitors;
 - (B) visual reading and urine test strips;
 - (C) lancets and lancet devices;
 - (D) insulin and insulin analogs;
 - (E) injection aids and devices that facilitate insulin therapy and enhance glucose control;
 - (F) syringes;
 - (G) prescriptive and nonprescriptive oral agents for controlling blood sugar levels; and
 - (H) glucagon emergency kits.

No equivalent provision.

SECTION __. This Act applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2010. A policy delivered, issued for delivery, or renewed before January 1, 2010, is

Same as House version.

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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 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 under Chapter 842;
- (3) a fraternal benefit society operating under Chapter

Same as House version.

SECTION 1. Same as House version.

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885;

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

(5) an exchange operating under Chapter 942;

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

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

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

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

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

(1) a basic coverage plan under Chapter 1551;

(2) a basic plan under Chapter 1575;

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

(4) basic coverage under Chapter 1601.

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

(1) a plan that provides coverage:

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

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because

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of sickness or injury;

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

(E) only for dental or vision care; or

(F) only for indemnity for hospital confinement;

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

(3) a workers' compensation insurance policy;

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

(5) a credit insurance policy;

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

or

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

[Sections 1377.004-1377.050 reserved for expansion]

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

Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL FORMULAS.

(a) A health benefit plan must provide coverage as provided by this chapter for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of:

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- (1) immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins;
- (2) severe food protein-induced enterocolitis syndrome;
- (3) eosinophilic disorders, as evidenced by the results of a biopsy; and
- (4) impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

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

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

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

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listed in Section 1377.051(a).

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

SECTION 2. Saving provision.

Same as House version.

SECTION 2. Same as House version.

SECTION 3. Effective date.

Same as House version.

SECTION 3. Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
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.), **Conference Committee Report**

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.

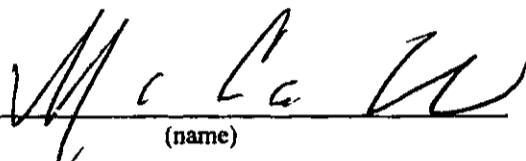
Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, CH, JW

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 2000 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.


(name)

5-30-09
(date)