SENATE BILL REPORT

SB 5833

As Reported By Senate Committee On:
Health & Long-Term Care, March 3, 1999

Title: An act relating to decisions about health care services.

Brief Description: Regulating health care services decisions.

Sponsors: Senators Wojahn, Heavey, Fairley and Thibaudeau.

Brief History:
Committee Activity: Health & Long-Term Care: 2/24/99, 3/3/99 [DPS-WM].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5833 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Thibaudeau, Chair; Wojahn, Vice Chair; Costa, Franklin and Winsley.

Staff: Joan K. Mell (786-7447)

Background: Consumers report managed care plans and other health care benefit programs have financial incentives that limit access to needed services. For example, some consumers are not referred to specialists, and some needed specialists are not part of managed care plan networks.

Two states, Texas and Missouri, passed legislation permitting managed care plan participants to sue plans when they are injured by a denial of health coverage. The policy arguments raised are consumer protection versus escalating coverage costs.

Summary of Substitute Bill: An intent is declared to enact consumer protections for consumers in need of medically necessary care and treatment to prevent inappropriate treatment delays or denials.

Health carrier or managed care entities are liable for damages for harm suffered by an enrollee when the carrier or entity fails to exercise ordinary care when making health care treatment decisions.

The health carrier or managed care entity is not liable if it did not control, influence, or participate in the health care decision or if it did not deny or delay payment for treatment prescribed or recommended by the provider.

The health carrier or managed care entity may act or fail to act through its employees, agents, or representatives.

The unlawful practice of medicine by a health carrier or managed care entity is not a defense in an action under this act.

Employer or employer group purchasing organizations are not subject to liability under this act.

An enrollee or the enrollee's representative must exhaust applicable grievance procedures provided for in the health plan, or must have participated in good faith in the grievance process for 90 days. An exception exists in cases where the harm has already occurred or the review is not beneficial.

An attorney's fees provision is included for violations of this act.

The statute of limitations runs three years from the completion of the grievance process or within three years of the accrual of the cause of action.

Substitute Bill Compared to Original Bill: The treble damages provision is removed and technical changes are made.

Appropriation: None.

Fiscal Note: Requested on February 22, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Insurers operate in a manner that controls treatment decisions. People have been denied covered benefits and access to care, resulting in injury and in some cases, death. Liability does not drive up insurance costs; Texas' costs did not increase dramatically.

Testimony Against: The law already permits claims against carriers. Managed care entities will interfere more in physician decision making if they know they can be held acccountable. Liability does not improve accountability.

Testified: PRO: Larry Shannon, WSTLA; Barbara Zepena; CON: Sally Yates, Group Health; Rick Wickman, Premera; Basil Badley, HIAA.