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BLUES: ONCOLOGY PANEL

House Bill 4791
Sponsor: Rep. Maxine Berman
Committee: Insurance

Complete to 6-23-93

A SUMMARY OF HOUSE BILL 4791 AS INTRODUCED 5-18-93

The bill would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1402 et al.), which governs the operation of Blue Cross and Blue Shield of Michigan, to do the following.

-- Create a 3-member oncology advisory panel whose duties would include advising the corporation about the efficacy, appropriateness, and administration of off-label indications of federal Food and Drug Administration-approved drugs used in antineoplastic therapy and reporting within two years after the bill's effective date to the appropriate legislative committees and the insurance commissioner its recommendations on such drugs.

-- Require the corporation, within 60 days after accepting approved drug indications recommended by the review panel, to make the computer programming changes necessary to add those approved drug indications to those already covered and to publish its acceptance of new drug indications in the first publication of the corporation's record issued within 90 days after acceptance.

-- Specify that the corporation would have 60 days after receipt of a completed written claim to affirm or deny coverage (rather than within "a reasonable time" as now) and would be prohibited from failing to immediately (rather than "promptly") settle a claim for which its liability was reasonably clear under one portion of a certificate to influence a settlement under another portion of the certificate.

-- Establish a somewhat different procedure in the act for cases when the insurance commissioner had probable cause to believe the corporation had a persistent tendency to engage in prohibited claims processing and marketing conduct.

Oncology Advisory Panel. The three panel members would have to be members of a hematology and oncology organization within the state identified by the organization as qualified to provide the required advice to the corporation. They would be appointed by the insurance commissioner from a list of persons recommended by the corporation and the hematology and oncology organization. They would serve for five years, except that of the initial members one would serve for five years, one for four years, and one for three years. The appointments would have to be made within 90 days after the bill's effective date. Panel members would serve without compensation but would be reimbursed for actual and necessary expenses.

Prohibited Conduct Process. Under the bill, when the insurance commissioner had probable cause to believe the corporation had a persistent tendency to engage in prohibited marketing and claims processing conduct, he or she would notify the corporation of the specific conduct at issue and allow the corporation 30 days to establish that it was in compliance. Further, the commissioner would have to ensure that the corporation had an opportunity to participate in an immediate informal conference to discuss with the commissioner or a representative the complaint that could be instituted. At that hearing, the issues could be resolved summarily upon agreement of the parties. If the corporation did not participate in an informal conference or the issues were not resolved at that time to the commissioner's satisfaction, the commissioner would provide the corporation written notice of a hearing to be held no later than 30 business days after the scheduled date of the informal conference. The hearing would be held pursuant to the Administrative Procedures Act. Within 20 business days after the hearing, the commissioner would issue and serve upon the corporation, and make available to people who appeared at the hearing, a written statement of findings. If the commissioner found by a preponderance of the evidence that the corporation had a persistent tendency to engage in prohibited conduct, he or she would include a cease and desist order with the findings. If the corporation violated such an order, or failed to comply within 60 days after being served with the order (or within a greater period of time determined by the commissioner), it would be subject to a civil fine of not more than \$10,000 for each violation, after notice and an opportunity for a hearing, and upon order of the commissioner. (The current procedure in the act does not, among other things, contain the deadlines found the bill.)