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ACCESS TO OB-GYN SERVICES

House Bill 4779 (Substitute H-1)
Sponsor: Rep. Rose Bogardus

House Bill 4780 (Substitute H-2)
Sponsor: Rep. Joseph Palamara

House Bill 4781 (Substitute H-2)
Sponsor: Rep. Lyn Bankes

Committee: Health Policy
First Analysis (3-18-98)

THE APPARENT PROBLEM:

Among the many health care reform initiatives currently sweeping the country is a move to provide women with greater access to obstetrician-gynecologists (ob-gyns). By mid-1997, at least 26 states had passed some form of direct patient access laws. Where some states have adopted laws to require insurance carriers to allow women to designate ob-gyns as primary care physicians, other states have concentrated on providing direct access for routine examinations.

The importance of access to this physician speciality was underscored by a 1993 Gallop Poll that revealed that women examined by ob-gyns were far more likely to receive certain preventative or primary services such as pelvic exams (performed in 94 percent of office visits to ob-gyns as compared to 35 percent by other physician groups), pap smears to detect cervical cancer and other abnormalities (94 percent vs. 33 percent), clinical breast exams (88 percent vs. 46 percent), and referrals for mammograms (43 percent vs. 26 percent). Older women aged 55-65, who are at a greater risk for breast cancer, had a mammogram referral rate of 79 percent by ob-gyns as compared to 57 percent by other physicians. Other literature reveals that a significant number of women see an ob-gyn almost exclusively, receiving a full-line of health services in addition to reproductive and menopause care and counseling. In short, it is not uncommon for women to have the majority of their preventive health screening and examinations performed by ob-gyns.

The 1993 poll also revealed that almost one quarter of women with insurance must first obtain a referral from a primary care physician or "gatekeeper" before seeing an ob-gyn. This practice often results in unnecessary delays in obtaining services and increased costs associated with additional co-pays, time off from work for extra appointments, and transportation costs. In addition, some stories have surfaced about primary care physicians refusing to refer patients to ob-gyns, insisting instead on performing the examinations and even some in-office surgical procedures themselves. Reportedly, in some of the cases, women have been adversely affected by delays in treatment or having procedures performed by primary care physicians that were best left to a specialist in obstetrics and gynecology.

Though recent changes in insurance laws in the state have clarified appeal procedures for denial of referrals or refusal to cover certain services, many feel that in light of the growing body of information regarding the importance of care by ob-gyns, the insurance laws should be further amended to allow women direct access to ob-gyns for annual exams and routine obstetric and gynecologic services.

THE CONTENT OF THE BILLS:

House Bill 4779 would amend the Public Health Code (MCL 333.21053d), which applies to group and individual contracts of health maintenance organizations (HMOs), to require health insurers to allow a female enrollee or member to see a participating obstetrician-gynecologist without prior authorization or referral for annual well-woman

examinations and routine obstetrical and gynecologic services for those plans that require a female enrollee or member to designate a primary care provider. House Bill 4780 and House Bill 4781 would make similar changes to the Insurance Code (MCL 500.3406j) to apply to expense-incurred hospital, medical, or surgical policies and certificates of commercial health insurance companies, and the Nonprofit Health Care Corporation Reform Act (MCL 550.401f) to apply to group and nongroup certificates of Blue Cross and Blue Shield of Michigan, respectively, but would restrict the requirement to those plans that provide for annual well-woman examinations and routine obstetrical and gynecologic services. However, under each of the bills, an insurer could require prior authorization for access to a nonaffiliated obstetrician-gynecologist.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The 1993 Gallup Poll underscored what several studies had already noted -- that women rely heavily on ob-gyns for delivery of a wide range of health services, especially preventative services such as regular pelvic exams, pap smears, and clinical breast exams in addition to reproductive and menopause counseling. Many women prefer to receive such preventative services from a physician specializing in women's reproductive health. Yet, close to one quarter of women covered by insurance plans are denied direct access to their ob-gyns, having to first obtain a referral from a primary care physician. For some women, this has resulted in treatment delays and extra co-pay expenses, not to mention problems encountered when a physician has refused to refer a woman to an ob-gyn or has attempted to perform procedures best suited to be performed by a specialist. In addition, being able to go directly to an ob-gyn, even if only for routine care and annual exams, still gives women the opportunity to discuss their overall reproductive health concerns with their ob-gyns. This may increase the information a woman can receive about her health, allay concerns, or identify possible treatment needs that will need to be discussed with her primary care physician in order to arrange for referral to the ob-gyn for non-routine care. Therefore, the bills represent an important first step in recognizing that ob-gyns are an integral component of a woman's health team.

Response:

Access to care by specialists should remain by referral only or health care costs will continue to escalate.

Rebuttal:

The bills have received support from members of the insurance industry as well as the medical profession, as they represent a compromise between the philosophies of providing women with greater control over their health services and enabling insurers to hold down costs by keeping some restrictions on access to specialist care. For example, insurers could still require referrals for non-routine obstetrical and gynecologic care such as cancer treatment and, though women could have direct access to an ob-gyn, the ob-gyn would have to be on the plan's participating provider panel. In addition, the bills do not impose costly mandates on insurers. Health Maintenance Organizations (HMOs) are already required under the Public Health Code to provide annual well-woman examinations and routine ob-gyn care as a covered benefit. The significant change therefore is that women covered under HMO plans could now receive those covered benefits from their ob-gyns without having to see their primary care physicians first. This will most likely result in savings to both insurers and those they insure.

As to other types of insurers, current laws do not require commercial fee-for-service, Participating Physician Organizations (PPOs), or Blue Cross and Blue Shield of Michigan/Blue Care Network to provide such services as a covered benefit, but leave it up to employers to build a plan that meets the needs of their employees. The bill would only affect these insurers if the plan requires an enrollee to designate a primary care physician and if such services are a covered benefit. Typically, these types of plans do not require any type of a gatekeeper, and so women are already free to seek care by ob-gyns.

Against:

The bills would have little significant impact, as many plans already allow women direct access to ob-gyns for certain services. In addition, approximately 60 to 70 percent of Michigan's insured women are covered by "self-insured" plans, which are regulated by federal ERISA laws and so are exempt from state regulation. Two of the bills, House Bills 4780 and 4781, apparently would have no impact as traditional plans offered by commercial carriers and plans offered by Blue Cross and Blue Shield of Michigan and Blue Care Network do not require enrollees to designate a primary care physician and so would not be covered by the bills.

Response:
For those women currently covered by an HMO, House Bill 4779 is extremely significant, as it can mean the difference in accessability to a segment of the health care profession. The other two bills may not have an immediate impact, but health care delivery systems are changing rapidly as insurers try to meet the needs of their enrollees in light of increasing health care costs. The bills, therefore, would place language in statute so that if a benefit plan were to meet the criteria of the legislation, women insured under the plan would be able to have timely access to their ob-gyns and continuity of care, rather than having to wait for the laws to be amended.

Against:
Some in the health care field believe that legislation is not an appropriate conduit to define physician/patient relationships, especially as many insurers already allow direct access to ob-gyns for certain services. Still others feel that Participating Physician Organizations (PPOs) may not come under the requirements of the legislation unless a similar provision is placed in the Prudent Purchasers Act instead of amending the Insurance Code as House Bill 4780 would do.

POSITIONS:

The Michigan State Medical Society supports the bills. (3-17-98)

The Michigan Conference - National Organization for Women supports the bills. (3-17-98)

The Michigan Chamber of Commerce supports the bills. (3-17-98)

Blue Cross and Blue Shield of Michigan/Blue Care Network (BCBSM/BCN) supports the bills. (3-17-98)

The Michigan Osteopathic Association has adopted a position of neutrality on the bills. (3-17-98)

The Economic Alliance has no objections to the bills. (3-17-98)

The Health Insurance Association of America supports the concept of the bills, but believes the provisions under the Prudent Purchasers Act should also be amended and not the Insurance Code. (3-18-98)

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.