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BLUES: ONCOLOGY PANEL, ETC.

House Bill 4323

Sponsor: Rep. Maxine Berman

Committee: Insurance

Complete to 8-3-95

A SUMMARY OF HOUSE BILL 4323 AS INTRODUCED 2-7-95

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 routes of 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 to publish its acceptance of the review panel's recommendation for approved drugs in its official physician publication within 120 days after its acceptance of the recommendation or within a greater period of time as mutually agreed to by the review panel and corporation.

-- Specify that the corporation would have 60 days after receipt of a completed written or electronically transferred 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 believed the corporation had engaged in or was engaging in prohibited claims processing and marketing conduct. The changes appear mostly to involve the use of deadlines for certain actions that are not in the act now.

-- Require the corporation to report to the standing committees of the House and Senate that address insurance issues the annual report on complaints that now must be submitted to the insurance commissioner. The report would have to include the previous two-year totals of complaints, dispositions, underlying causes, and measures implemented to alleviate those causes.

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

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hematology and oncology organization. They would serve for four years, except that of the initial members, one would serve for four years, one for three years, and one for two 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 believed by a preponderance of the evidence that the corporation had engaged in actions that indicated a persistent tendency to engage in prohibited claims processing conduct or had violated or was violating prohibited marketing 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 claims processing conduct or had or was violating marketing standards, 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.