

1 AN ACT

2 relating to health benefit plan coverage for certain prosthetic  
3 devices, orthotic devices, and related services.

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

5 SECTION 1. Subtitle E, Title 8, Insurance Code, is amended  
6 by adding Chapter 1371 to read as follows:

7 CHAPTER 1371. COVERAGE FOR CERTAIN PROSTHETIC DEVICES, ORTHOTIC  
8 DEVICES, AND RELATED SERVICES

9 Sec. 1371.001. DEFINITIONS. In this chapter:

10 (1) "Enrollee" means an individual entitled to  
11 coverage under a health benefit plan.

12 (2) "Orthotic device" means a custom-fitted or  
13 custom-fabricated medical device that is applied to a part of the  
14 human body to correct a deformity, improve function, or relieve  
15 symptoms of a disease.

16 (3) "Prosthetic device" means an artificial device  
17 designed to replace, wholly or partly, an arm or leg.

18 Sec. 1371.002. APPLICABILITY OF CHAPTER. (a) This chapter  
19 applies only to a health benefit plan, including a small employer  
20 health benefit plan written under Chapter 1501 or coverage provided  
21 by a health group cooperative under Subchapter B of that chapter,  
22 that provides benefits for medical or surgical expenses incurred as  
23 a result of a health condition, accident, or sickness, including an  
24 individual, group, blanket, or franchise insurance policy or

1 insurance agreement, a group hospital service contract, or an  
2 individual or group evidence of coverage or similar coverage  
3 document that is offered by:

4 (1) an insurance company;

5 (2) a group hospital service corporation operating  
6 under Chapter 842;

7 (3) a fraternal benefit society operating under  
8 Chapter 885;

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

11 (5) a reciprocal exchange operating under Chapter 942;

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

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

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

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

19 (b) Notwithstanding any provision in Chapter 1551, 1575,  
20 1579, or 1601 or any other law, this chapter applies to:

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

22 (2) a basic plan under Chapter 1575;

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

24 and

25 (4) basic coverage under Chapter 1601.

26 Sec. 1371.003. REQUIRED COVERAGE FOR PROSTHETIC DEVICES,  
27 ORTHOTIC DEVICES, AND RELATED SERVICES. (a) A health benefit plan

1 must provide coverage for prosthetic devices, orthotic devices, and  
2 professional services related to the fitting and use of those  
3 devices that equals the coverage provided under federal laws for  
4 health insurance for the aged and disabled under Sections 1832,  
5 1833, and 1834, Social Security Act (42 U.S.C. Sections 1395k,  
6 1395l, and 1395m), and 42 C.F.R. Sections 410.100, 414.202,  
7 414.210, and 414.228, as applicable.

8 (b) Covered benefits under this chapter are limited to the  
9 most appropriate model of prosthetic device or orthotic device that  
10 adequately meets the medical needs of the enrollee as determined by  
11 the enrollee's treating physician or podiatrist and prosthetist or  
12 orthotist, as applicable.

13 (c) Subject to applicable copayments and deductibles, the  
14 repair and replacement of a prosthetic device or orthotic device is  
15 a covered benefit under this chapter unless the repair or  
16 replacement is necessitated by misuse or loss by the enrollee.

17 (d) Coverage required under this section:

18 (1) must be provided in a manner determined to be  
19 appropriate in consultation with the treating physician or  
20 podiatrist and prosthetist or orthotist, as applicable, and the  
21 enrollee;

22 (2) may be subject to annual deductibles, copayments,  
23 and coinsurance that are consistent with annual deductibles,  
24 copayments, and coinsurance required for other coverage under the  
25 health benefit plan; and

26 (3) may not be subject to annual dollar limits.

27 (e) Covered benefits under this chapter may be provided by a

1 pharmacy that has employees who are qualified under the Medicare  
2 system and applicable Medicaid regulations to service and bill for  
3 orthotic services. This chapter does not preclude a pharmacy from  
4 being reimbursed by a health benefit plan for the provision of  
5 orthotic services.

6 Sec. 1371.004. PREAUTHORIZATION. A health benefit plan may  
7 require prior authorization for a prosthetic device or an orthotic  
8 device in the same manner that the health benefit plan requires  
9 prior authorization for any other covered benefit.

10 Sec. 1371.005. MANAGED CARE PLAN. A health benefit plan  
11 provider may require that, if coverage is provided through a  
12 managed care plan, the benefits mandated under this chapter are  
13 covered benefits only if the prosthetic devices or orthotic devices  
14 are provided by a vendor or a provider, and related services are  
15 rendered by a provider, that contracts with or is designated by the  
16 health benefit plan provider. If the health benefit plan provider  
17 provides in-network and out-of-network services, the coverage for  
18 prosthetic devices or orthotic devices provided through  
19 out-of-network services must be comparable to that provided through  
20 in-network services.

21 SECTION 2. Chapter 1371, Insurance Code, as added by this  
22 Act, applies only to a health benefit plan that is delivered,  
23 issued for delivery, or renewed on or after January 1, 2010. A  
24 health benefit plan that is delivered, issued for delivery, or  
25 renewed before January 1, 2010, is covered by the law in effect at  
26 the time the plan was delivered, issued for delivery, or renewed,  
27 and that law is continued in effect for that purpose.

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

Robert Orr  
President of the Senate

[Signature]  
Speaker of the House

I certify that H.B. No. 806 was passed by the House on April 2, 2009, by the following vote: Yeas 105, Nays 35, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 806 on May 4, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 806 was passed by the Senate, with amendments, on April 30, 2009, by the following vote: Yeas 31, Nays 0.

[Signature]  
Secretary of the Senate

APPROVED: 13 MAY '09  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
5:30 P.M. O'CLOCK

MAY 13 2009  
[Signature]  
Secretary of State