

By: Smithee

H.B. No. 1754

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of certain prescription drug information by a health benefit plan.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. DISCLOSURE OF CERTAIN PRESCRIPTION DRUG INFORMATION SPECIFIED BY DRUG FORMULARY

Sec. 1369.091. DEFINITIONS. In this subchapter:

(1) "Cost-sharing information" means the actual out-of-pocket amount an enrollee is required to pay a dispensing pharmacy or prescribing provider for a prescription drug under the enrollee's health benefit plan.

(2) "Drug formulary," "enrollee," and "prescription drug" have the meanings assigned by Section 1369.051.

(3) "Standard API" means an application interface that is standardized for vendors to conform to in order to access information under 45 C.F.R. Section 170.215.

Sec. 1369.092. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or

1 group evidence of coverage or similar coverage document that is
2 offered by:

3 (1) an insurance company;

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

6 (3) a health maintenance organization operating under
7 Chapter 843;

8 (4) an approved nonprofit health corporation that
9 holds a certificate of authority under Chapter 844;

10 (5) a multiple employer welfare arrangement that holds
11 a certificate of authority under Chapter 846;

12 (6) a stipulated premium company operating under
13 Chapter 884;

14 (7) a fraternal benefit society operating under
15 Chapter 885;

16 (8) a Lloyd's plan operating under Chapter 941; or

17 (9) an exchange operating under Chapter 942.

18 (b) Notwithstanding any other law, this subchapter applies
19 to:

20 (1) a small employer health benefit plan subject to
21 Chapter 1501, including coverage provided through a health group
22 cooperative under Subchapter B of that chapter;

23 (2) a standard health benefit plan issued under
24 Chapter 1507;

25 (3) a basic coverage plan under Chapter 1551;

26 (4) a basic plan under Chapter 1575;

27 (5) a primary care coverage plan under Chapter 1579;

1 (6) a plan providing basic coverage under Chapter
2 1601;

3 (7) nonprofit agricultural organization health
4 benefits offered by a nonprofit agricultural organization under
5 Chapter 1682;

6 (8) alternative health benefit coverage offered by a
7 subsidiary of the Texas Mutual Insurance Company under Subchapter
8 M, Chapter 2054;

9 (9) health benefits provided by or through a church
10 benefits board under Subchapter I, Chapter 22, Business
11 Organizations Code;

12 (10) a regional or local health care program operated
13 under Section 75.104, Health and Safety Code;

14 (11) a self-funded health benefit plan sponsored by a
15 professional employer organization under Chapter 91, Labor Code;

16 (12) county employee group health benefits provided
17 under Chapter 157, Local Government Code; and

18 (13) health and accident coverage provided by a risk
19 pool created under Chapter 172, Local Government Code.

20 Sec. 1369.093. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

21 This subchapter does not apply to an issuer or provider of health
22 benefits under or a pharmacy benefit manager administering pharmacy
23 benefits under:

24 (1) the state Medicaid program, including the Medicaid
25 managed care program operated under Chapter 533, Government Code;

26 (2) the child health plan program under Chapter 62,
27 Health and Safety Code;

1 (3) the TRICARE military health system; or

2 (4) a workers' compensation insurance policy or other
3 form of providing medical benefits under Title 5, Labor Code.

4 Sec. 1369.094. DISCLOSURE OF PRESCRIPTION DRUG
5 INFORMATION. (a) A health benefit plan issuer that covers
6 prescription drugs and uses one or more drug formularies to specify
7 the prescription drugs covered under the plan shall provide
8 information regarding a prescription drug to an enrollee or the
9 enrollee's prescribing provider on request. The information
10 provided must include the issuer's drug formulary and, for the
11 prescription drug and any formulary alternative:

12 (1) the enrollee's eligibility;

13 (2) cost-sharing information, including any
14 deductible, copayment, or coinsurance, which must:

15 (A) be consistent with cost-sharing requirements
16 under the enrollee's plan;

17 (B) be accurate at the time the cost-sharing
18 information is provided; and

19 (C) include any variance in cost-sharing based on
20 the patient's preferred dispensing retail or mail-order pharmacy or
21 the prescribing provider; and

22 (3) applicable utilization management requirements.

23 (b) In providing the information required under Subsection
24 (a), a health benefit plan issuer shall:

25 (1) respond in real time to a request made through a
26 standard API;

27 (2) allow the use of an integrated technology or

1 service as necessary to provide the required information;

2 (3) ensure that the information provided is current no
3 later than one business day after the date a change is made; and

4 (4) provide the information if the request is made
5 using the drug's unique billing code and National Drug Code.

6 (c) A health benefit plan issuer may not:

7 (1) deny or delay a response to a request for
8 information under Subsection (a) for the purpose of blocking the
9 release of the information;

10 (2) restrict a prescribing provider from
11 communicating to the enrollee the information provided under
12 Subsection (a), information about the cash price of the drug, or any
13 additional information on any lower cost or clinically appropriate
14 alternative drug, whether or not the drug is covered under the
15 enrollee's plan;

16 (3) except as required by law, interfere with,
17 prevent, or materially discourage access to or the exchange or use
18 of the information provided under Subsection (a), including by:

19 (A) charging a fee to access the information;

20 (B) not responding to a request within the time
21 required by this section; or

22 (C) instituting a consent requirement for an
23 enrollee to access the information; or

24 (4) penalize, including by taking any action intended
25 to punish or discourage future similar behavior by the prescribing
26 provider, a prescribing provider for:

27 (A) disclosing the information provided under

1 Subsection (a); or

2 (B) prescribing, administering, or ordering a
3 lower cost or clinically appropriate alternative drug.

4 SECTION 2. The changes in law made by this Act apply only to
5 a health benefit plan delivered, issued for delivery, or renewed on
6 or after January 1, 2024.

7 SECTION 3. This Act takes effect September 1, 2023.