

By: Taylor

H.B. No. 2736

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the exclusion of certain employees from small employer
3 health benefit plans.

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

5 SECTION 1. Section 10(b), Article 3.77, Insurance Code, is
6 amended to read as follows:

7 (b) Any individual who is and continues to be a resident, as
8 defined by Section 2(17)(A) of this article, and who is a citizen of
9 the United States or has been a permanent resident of the United
10 States for at least three continuous years is eligible for coverage
11 from the pool if the individual provides to the pool:

12 (1) a notice of rejection or refusal to issue
13 substantially similar individual insurance for health reasons by
14 one insurer, other than a rejection or refusal by an insurer
15 offering only stop-loss, excess loss, or reinsurance coverage;

16 (2) a certification from an agent or salaried
17 representative of an insurer, on a form developed by the board and
18 approved by the commissioner, that states that the agent or
19 salaried representative is unable to obtain substantially similar
20 individual insurance for the individual with any state-licensed
21 insurer that the agent or salaried representative represents
22 because the individual will be declined for coverage as a result of
23 a medical condition of the individual under the underwriting
24 guidelines of the insurer;

1 (3) an offer to issue substantially similar individual
2 insurance only with conditional riders;

3 (4) a refusal by an insurer to issue substantially
4 similar individual insurance except at a rate exceeding the pool
5 rate; ~~[or]~~

6 (5) diagnosis of the individual with one of the
7 medical or health conditions listed by the board under Section 6(c)
8 of this article and for which a person shall be eligible for pool
9 coverage; or

10 (6) a certification from the individual's employer
11 that the individual is excluded from health benefit plan coverage
12 under Article 26.21B of this code.

13 SECTION 2. Subchapter C, Chapter 26, Insurance Code, is
14 amended by adding Article 26.21B to read as follows:

15 Art. 26.21B. EXCLUSION OF CERTAIN EMPLOYEES AND DEPENDENTS.

16 (a) Notwithstanding Article 26.21 of this code, a small employer
17 may elect not to include an employee or a dependent of an employee
18 in a small employer health benefit plan if including the employee or
19 dependent in the plan would substantially increase the premium paid
20 for the entire group covered by the plan.

21 (b) A small employer who elects to exclude an employee or
22 dependent from the employer's health benefit plan under Subsection
23 (a) must:

24 (1) pay any premium the excluded employee or dependent
25 must pay to receive health insurance under Article 3.77 of this
26 code; and

27 (2) provide an excluded employee or dependent with the

1 certification required by Section 10(b)(6), Article 3.77, of this
2 code.

3 (c) Subsection (b) of this article applies to coverage for a
4 dependent only if the small employer health benefit plan provides
5 coverage to dependents. Subsection (b)(1) of this article applies
6 to coverage for a dependent only if the small employer pays the
7 premium cost for other dependents under the small employer health
8 benefit plan.

9 (d) An employee excluded from a small employer health
10 benefit plan under this article is not considered an employee of the
11 small employer only for the purposes of determining the 75 percent
12 participation requirement of Article 26.21.

13 (e) The commissioner shall adopt rules specifying, by
14 amount or percentage, what constitutes a substantial increase in
15 premium for purposes of Subsection (a) of this article.

16 SECTION 3. This Act takes effect September 1, 2003, and
17 applies only to a small employer health benefit plan that is
18 delivered, issued for delivery, or renewed on or after January 1,
19 2004. A small employer health benefit plan that is delivered,
20 issued for delivery, or renewed before January 1, 2004, is governed
21 by the law as it existed immediately before the effective date of
22 this Act, and the former law is continued in effect for that
23 purpose.