

By: Williams, et al.

S.B. No. 541

A BILL TO BE ENTITLED

AN ACT

relating to authorizing insurers and health maintenance organizations to issue plans that do not include state-mandated health benefits.

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

SECTION 1. Subchapter G, Chapter 3, Insurance Code, is amended by adding Article 3.80 to read as follows:

Art. 3.80. TEXAS CONSUMER CHOICE OF BENEFITS HEALTH INSURANCE PLAN ACT

Sec. 1. PURPOSE. The legislature recognizes the need for individuals, employers, and other purchasers of coverage in this state to have the opportunity to choose health insurance plans that are more affordable and flexible than existing market policies offering accident and sickness insurance coverage. The legislature, therefore, seeks to increase the availability of health insurance coverage by allowing insurers authorized to engage in the business of insurance in this state to issue accident and sickness policies that, in whole or in part, do not offer or provide state-mandated health benefits.

Sec. 2. DEFINITIONS. In this article:

(1) "Health carrier" means any entity authorized under this code or another insurance law of this state that provides health insurance or health benefits in this state, including an insurance company, a group hospital service corporation under

1 Chapter 842 of this code, and a stipulated premium company under
2 Chapter 884 of this code.

3 (2) "Standard health benefit plan" means an accident
4 or sickness insurance policy that, in whole or in part, does not
5 offer or provide state-mandated health benefits, but that provides
6 creditable coverage as defined by Article 26.035(a) of this code or
7 Section 1(H)(4)(b), Chapter 397, Acts of the 54th Legislature,
8 Regular Session, 1955 (Article 3.70-1, Vernon's Texas Insurance
9 Code).

10 Sec. 3. STATE-MANDATED HEALTH BENEFITS. (a) For purposes
11 of this article, "state-mandated health benefits" means coverage
12 required under this code or other laws of this state to be provided
13 in an individual, blanket, or group policy for accident and health
14 insurance or a contract for a health-related condition that:

15 (1) includes coverage for specific health care
16 services or benefits;

17 (2) places limitations or restrictions on
18 deductibles, coinsurance, copayments, or any annual or lifetime
19 maximum benefit amounts; or

20 (3) includes a specific category of licensed health
21 care practitioner from whom an insured is entitled to receive care.

22 (b) For purposes of this article, "state-mandated health
23 benefits" does not include benefits that are mandated by federal
24 law or standard provisions or rights required under this code or
25 other laws of this state to be provided in an individual, blanket,
26 or group policy for accident and health insurance that are
27 unrelated to specific health illnesses, injuries, or conditions of

an insured, including provisions related to:

(1) continuation of coverage under:

(A) Section 1(d)(3) and Section 3B, Article 3.51-6 of this code;

(B) Section 2(C), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code);

(C) Article 3.51-8 of this code; and

(D) Section 3C, Article 3.51-6 of this code, as added by Section 10, Chapter 1041, Acts of the 71st Legislature, Regular Session, 1989;

(2) termination of coverage under Articles 3.70-1A, 26.23, and 26.86 of this code;

(3) preexisting conditions under Section 1(H), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-1, Vernon's Texas Insurance Code), and Articles 26.49 and 26.90 of this code;

(4) coverage of children, including newborn or adopted children, under:

(A) Sections 1, 3D, and 3E, Article 3.51-6 of this code;

(B) Sections 2(A), (E), (K), and (M), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code);

(C) Subchapter J, Chapter 3 of this code;

(D) Article 21.24-2 of this code;

(E) Article 26.21(n) of this code;

1 (F) Article 26.21A of this code; and

2 (G) Article 26.84 of this code;

3 (5) supplies and services associated with the
4 treatment of diabetes under Article 21.53G of this code; and

5 (6) coverage for serious mental illness under Article
6 3.51-14 of this code if the standard health benefit plan is issued
7 to a large employer as defined by Article 26.02 of this code.

8 Sec. 4. STANDARD HEALTH BENEFIT PLANS AUTHORIZED. A health
9 carrier may offer one or more standard health benefit plans.

10 Sec. 5. NOTICE TO POLICYHOLDER. (a) Each written
11 application for participation in a standard health benefit plan
12 must contain the following language at the beginning of the
13 document in bold type:

14 "You have the option to choose this Consumer
15 Choice of Benefits Health Insurance Plan that, either
16 in whole or in part, does not provide state-mandated
17 health benefits normally required in accident and
18 sickness insurance policies in Texas. This standard
19 health benefit plan may provide a more affordable
20 health insurance policy for you although, at the same
21 time, it may provide you with fewer health benefits
22 than those normally included as state-mandated health
23 benefits in policies in Texas. If you choose this
24 standard health benefit plan, please consult with your
25 insurance agent to discover which state-mandated
26 health benefits are excluded in this policy."

27 (b) Each standard health benefit plan must contain the

following language at the beginning of the document in bold type:

"This Consumer Choice of Benefits Health Insurance Plan, either in whole or in part, does not provide state-mandated health benefits normally required in accident and sickness insurance policies in Texas. This standard health benefit plan may provide a more affordable health insurance policy for you although, at the same time, it may provide you with fewer health benefits than those normally included as state-mandated health benefits in policies in Texas. Please consult with your insurance agent to discover which state-mandated health benefits are excluded in this policy."

Sec. 6. DISCLOSURE STATEMENT. (a) An insurer providing a standard health benefit plan must provide a proposed policyholder or policyholder with a written disclosure statement that:

(1) acknowledges that the standard health benefit plan being purchased does not provide some or all state-mandated health benefits;

(2) lists those state-mandated health benefits not included under the standard health benefit plan; and

(3) if the standard health benefit plan is issued to an individual policyholder, provides a notice that purchase of the plan may limit the policyholder's future coverage options in the event the policyholder's health changes and needed benefits are not available under the standard health benefit plan.

(b) Each applicant for initial coverage and each

1 policyholder on renewal of coverage must sign the disclosure
2 statement provided by the insurer under Subsection (a) of this
3 section and return the statement to the insurer. Under a group
4 policy or contract, the term "applicant" means the employer.

5 (c) An insurer must:

6 (1) retain the signed disclosure statement in the
7 insurer's records; and

8 (2) on request from the commissioner, provide the
9 signed disclosure statement to the department.

10 Sec. 7. RULES. The commissioner shall adopt rules as
11 necessary to implement this article.

12 Sec. 8. ADDITIONAL POLICIES. An insurer that offers one or
13 more standard health benefit plans under this article must also
14 offer at least one accident or sickness insurance policy with
15 state-mandated health benefits that is otherwise authorized by this
16 code.

17 Sec. 9. RATES. A health carrier shall file for
18 informational purposes the rates to be used with a standard health
19 benefit plan. Nothing in this section shall be construed as
20 granting the commissioner any power or authority to determine, fix,
21 prescribe, or promulgate the rates to be charged for any individual
22 accident and sickness insurance policy or policies.

23 SECTION 2. The Texas Health Maintenance Organization Act
24 (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding
25 Section 9N to read as follows:

26 Sec. 9N. CHOICE OF BENEFITS PLAN. (a) The legislature
27 recognizes the need for individuals and employers in this state to

have the opportunity to choose health maintenance organization plans that are more affordable and flexible than existing market health care plans offered by health maintenance organizations. The legislature, therefore, seeks to increase the availability of health care plans by allowing health maintenance organizations authorized to operate health maintenance organizations in this state to issue group or individual evidences of coverage that, in whole or in part, do not offer or provide mandated health benefits.

(b) In this section, "standard health benefit plan" means a group or individual evidence of coverage that, in whole or in part, does not offer or provide state-mandated health benefits, but that provides creditable coverage as defined by Article 26.035(a) of this code or Section 1(H)(4)(b), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-1, Vernon's Texas Insurance Code).

(c) For purposes of this section, "state-mandated health benefits" means coverage required under the Insurance Code or other laws of this state to be provided in an evidence of coverage that:

(1) includes coverage for specific health care services or benefits;

(2) places limitations or restrictions on deductibles, coinsurance, copayments, or any annual or lifetime maximum benefit amounts; or

(3) includes a specific category of licensed health care practitioner from whom an enrollee is entitled to receive care.

(d) For purposes of this section, "state-mandated health

1 benefits" does not include coverage that is mandated by federal law
2 or standard provisions or rights required under the Insurance Code
3 or other law of this state to be provided in an evidence of coverage
4 that are unrelated to specific health illnesses, injuries, or
5 conditions of an insured, including provisions related to:

6 (1) continuation of coverage under Section 3B, Article
7 3.51-6, Insurance Code;

8 (2) termination of coverage under Articles 3.70-1A,
9 26.23, and 26.86, Insurance Code;

10 (3) preexisting conditions under Section 1(H),
11 Chapter 397, Acts of the 54th Legislature, Regular Session, 1955
12 (Article 3.70-1, Vernon's Texas Insurance Code), and Articles 26.49
13 and 26.90, Insurance Code;

14 (4) coverage of children, including newborn or adopted
15 children, under:

16 (A) Subchapter J, Chapter 3, Insurance Code;

17 (B) Article 21.24-2, Insurance Code;

18 (C) Article 26.21(n), Insurance Code;

19 (D) Article 26.21A, Insurance Code; and

20 (E) Article 26.84, Insurance Code; and

21 (5) coverage for serious mental health illness under
22 Article 3.51-14, Insurance Code, if the standard health benefit
23 plan is issued to a large employer as defined in Article 26.02,
24 Insurance Code.

25 (e) A health maintenance organization authorized to issue
26 an evidence of coverage in this state may offer one or more standard
27 health benefit plans.

1 (f)(1) Each written application for enrollment in a
2 standard health benefit plan must contain the following language at
3 the beginning of the document in bold type:

4 "You have the option to choose this Consumer
5 Choice of Benefits Health Maintenance Organization
6 health care plan that, either in whole or in part, does
7 not provide state-mandated health benefits normally
8 required in evidences of coverage in Texas. This
9 standard health benefit plan may provide a more
10 affordable health plan for you although, at the same
11 time, it may provide you with fewer health plan
12 benefits than those normally included as
13 state-mandated health benefits in Texas. If you
14 choose this standard health benefit plan, please
15 consult with your insurance agent to discover which
16 state-mandated health benefits are excluded in this
17 evidence of coverage."

18 (2) Each standard health benefit plan must contain the
19 following language at the beginning of the document in bold type:

20 "This Consumer Choice of Benefits Health
21 Maintenance Organization health care plan, either in
22 whole or in part, does not provide state-mandated
23 health benefits normally required in evidences of
24 coverage in Texas. This standard health benefit plan
25 may provide a more affordable health plan for you
26 although, at the same time, it may provide you with
27 fewer health plan benefits than those normally

1 included as state-mandated health benefits in Texas.

2 Please consult with your insurance agent to discover

3 which state-mandated health benefits are excluded in

4 this evidence of coverage."

5 (g) A health maintenance organization providing a standard
6 health benefit plan must provide a proposed contract holder or a
7 contract holder with a written disclosure statement that:

8 (1) acknowledges that the standard health benefit plan
9 being purchased does not provide some or all state-mandated health
10 benefits;

11 (2) lists those state-mandated health benefits not
12 included in the standard health benefit plan; and

13 (3) if the standard health benefit plan is issued to an
14 individual certificate holder, provides a notice that purchase of
15 the plan may limit the certificate holder's future coverage options
16 in the event the certificate holder's health changes and needed
17 benefits are not available under the standard health benefit plan.

18 (h) Each applicant for initial enrollment and each contract
19 holder on renewal must sign the disclosure statement provided by
20 the health maintenance organization under Subsection (g) of this
21 section and return the statement to the health maintenance
22 organization. Under a group evidence of coverage, the term
23 "applicant" means the employer.

24 (i) A health maintenance organization must:

25 (1) retain the signed disclosure statement in the
26 organization's records; and

27 (2) on request from the commissioner, provide the

1 signed disclosure statement to the department.

2 (j) The commissioner shall adopt rules as necessary to
3 implement this section.

4 (k) A health maintenance organization that offers one or
5 more standard health benefit plans under this section must also
6 offer at least one evidence of coverage that provides
7 state-mandated health benefits and that is otherwise authorized by
8 the Insurance Code.

9 (l) A health maintenance organization shall file for
10 informational purposes the rates to be used with a standard health
11 benefit plan. Nothing in this section shall be construed as
12 granting the commissioner any power or authority to determine, fix,
13 prescribe, or promulgate the rates to be charged for any evidence of
14 coverage.

15 SECTION 3. Subsection (b), Article 26.38, Insurance Code,
16 is amended to read as follows:

17 (b) A health maintenance organization that participates in
18 a purchasing cooperative that provides employees of small employers
19 a choice of benefit plans, that has established a separate class of
20 business as provided by Article 26.31 of this code, and that has
21 established a separate line of business as provided under Article
22 26.48(a) of this code [~~and Title XIII, Public Health Service Act (42~~
23 ~~U.S.C. Section 300e et seq.)~~] may use rating methods in accordance
24 with this subchapter that are used by other small employer carriers
25 participating in the same cooperative, including rating by age and
26 gender.

27 SECTION 4. Article 26.42, Insurance Code, is amended to

read as follows:

Art. 26.42. SMALL EMPLOYER HEALTH BENEFIT PLANS. (a) A small employer carrier shall offer a standard health benefit plan as authorized by Article 3.80 of this code and Section 9N, Texas Health Maintenance Organization Act (Article 20A.09N, Vernon's Texas Insurance Code) ~~[the following two health benefit plans as adopted by the commissioner:~~

~~[(1) the catastrophic care benefit plan; and~~

~~[(2) the basic coverage benefit plan].~~

(b) A small employer carrier may offer to a small employer additional benefit riders to the standard health benefit plan or may design and offer standard health benefit plans with additional mandatory benefits ~~[either of the benefit plans]~~.

(c) Subject to the provisions of this chapter, a small employer carrier shall ~~[may]~~ also offer to small employers at least one ~~[any]~~ other health benefit plan authorized under this code that provides state-mandated health benefits. Article 26.06(c) does not apply to a health benefit plan offered to a small employer under this subsection.

SECTION 5. Subsection (a), Article 26.43, Insurance Code, is amended to read as follows:

(a) A ~~[The commissioner shall promulgate the benefits section of the catastrophic care benefit plan and the basic coverage benefit plan policy forms in accordance with Article 26.44A of this code and shall develop prototype policies for each of the benefit plans. For all other portions of these policy forms, a]~~ small employer carrier shall comply with Article 3.42 of this code

1 as it relates to policy form approval and with the Texas Health
2 Maintenance Organization Act (Article 20A.01 et seq., Vernon's
3 Texas Insurance Code) as it relates to approval of an evidence of
4 coverage. A small employer carrier may not offer ~~[these]~~ benefit
5 plans through a policy form or evidence of coverage that does not
6 comply with this chapter.

7 SECTION 6. Subsection (a), Article 26.48, Insurance Code,
8 is amended to read as follows:

9 (a) A health maintenance organization ~~[may offer]~~:

10 (1) shall offer at least one [a] state-approved basic
11 health care [benefit] plan that complies with this chapter, the
12 Texas Health Maintenance Organization Act (Chapter 20A, Vernon's
13 Texas Insurance Code), Title XIII, Public Health Service Act (42
14 U.S.C. Section 300e et seq.), and its subsequent amendments, and
15 rules adopted under these laws and may offer additional such plans;

16 (2) shall offer a standard health benefit plan under
17 Section 9N, Texas Health Maintenance Organization Act (Article
18 20A.09N, Vernon's Texas Insurance Code), and may offer additional
19 benefit riders to the standard health benefit plan or offer
20 standard health benefit plans with additional mandatory benefits
21 ~~[developed by the commissioner under Article 26.44A of this code~~
22 ~~and additional benefit riders to the plan]; and [or]~~

23 (3) may offer a point-of-service contract in
24 connection with an insurance carrier that includes optional
25 coverage for out-of-area services, emergency care, or
26 out-of-network care.

27 SECTION 7. Subdivision (2), Section 843.002, Insurance

1 Code, as effective June 1, 2003, is amended to read as follows:

2 (2) "Basic health care services" means health care
3 services that the commissioner determines an enrolled population
4 might reasonably need to be maintained in good health[~~, including,~~
5 ~~at a minimum, services designated as basic health services under~~
6 ~~Section 1302, Title XIII, Public Health Service Act (42 U.S.C.~~
7 ~~Section 300e-1(1))~~].

8 SECTION 8. Article 26.44A, Insurance Code, is repealed.

9 SECTION 9. This Act takes effect September 1, 2003, and
10 applies only to an insurance policy, contract, or evidence of
11 coverage delivered, issued for delivery, or renewed on or after
12 January 1, 2004.