

By: Williams

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 or offer of coverage mandates.

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 and employers in this state to have the opportunity to choose health insurance plans that are more affordable and flexible than standard 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 provide state-mandated health benefits.

Sec. 2. DEFINITION. In this article, "nonstandard health benefits plan" means an accident or sickness insurance policy that, in whole or in part, does not offer state-mandated health benefits.

Sec. 3. STATE-MANDATED HEALTH BENEFITS. (a) For purposes of this article, "state-mandated health benefits" means coverage required under this code or other laws of this state to be provided

1 in an individual, blanket, or group policy for accident and health
2 insurance or a contract for a health-related condition that:

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

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

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

10 (b) For purposes of this article, "state-mandated health
11 benefits" does not include benefits that are mandated by federal
12 law or standard provisions or rights required under this code or
13 other laws of this state to be provided in an individual, blanket,
14 or group policy for accident and health insurance or a contract for
15 a health-related condition that are unrelated to specific health
16 illnesses, injuries, or conditions of an insured, including
17 provisions related to:

18 (1) continuation of coverage under:

19 (A) Section 1(d)(3) and Section 3B, Article
20 3.51-6 of this code; and

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

24 (2) termination of coverage under Articles 26.23 and
25 26.86 of this code;

26 (3) preexisting conditions under Articles 26.49 and
27 26.90 of this code;

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

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

5 (B) Sections 2(A), (E), (K), and (M), Chapter
6 397, Acts of the 54th Legislature, Regular Session, 1955 (Article
7 3.70-2, Vernon's Texas Insurance Code);

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

9 (D) Article 21.24-2 of this code;

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

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

12 (G) Article 26.84 of this code; and

13 (5) coverage for serious mental illness under Article
14 3.51-14 of this code.

15 Sec. 4. LIMITED HEALTH BENEFIT PLANS AUTHORIZED. An
16 insurer authorized to engage in the business of insurance in this
17 state may offer one or more nonstandard health benefit plans.

18 Sec. 5. NOTICE TO POLICYHOLDER. Each nonstandard health
19 benefits plan policy, written application for a participation in a
20 nonstandard health benefits plan, or contract in which a proposed
21 group or individual policyholder chooses a nonstandard health
22 benefits plan must contain the following language at the beginning
23 of the document in bold type:

24 "You have the option to choose this Consumer
25 Choice of Benefits Health Insurance Plan that, either
26 in whole or in part, does not provide state-mandated
27 health benefits normally required in accident and

sickness insurance policies in Texas. This
nonstandard health benefits 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.
If you choose this nonstandard health benefits plan,
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
nonstandard health benefits plan must provide a proposed
policyholder or policyholder with a written disclosure statement
that:

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

(2) lists those state-mandated health benefits not
included under the nonstandard health benefits plan.

(b) Each applicant for initial coverage and each
policyholder on renewal of coverage must sign the disclosure
statement provided by the insurer under Subsection (a) of this
section and return the statement to the insurer.

(c) An insurer must:

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

(2) on request from the commissioner, provide the

1 signed disclosure statement to the department.

2 Sec. 7. RULES. The commissioner shall adopt rules as
3 necessary to implement this article.

4 Sec. 8. ADDITIONAL POLICIES. An insurer that offers one or
5 more nonstandard health benefit plans under this article must also
6 offer at least one accident or sickness insurance policy with
7 state-mandated health benefits that is otherwise authorized by this
8 code.

9 Sec. 9. RATES. The commissioner may determine and
10 prescribe appropriate rates to be charged for a nonstandard health
11 benefits plan offered under this article.

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

15 Sec. 9N. CHOICE OF BENEFITS PLAN. (a) The legislature
16 recognizes the need for individuals and employers in this state to
17 have the opportunity to choose health maintenance organization
18 plans that are more affordable and flexible than standard market
19 health care plans offered by health maintenance organizations. The
20 legislature, therefore, seeks to increase the availability of
21 health care plans by allowing health maintenance organizations
22 authorized to operate health maintenance organizations in this
23 state to issue evidences of coverage that, in whole or in part, do
24 not provide offer of coverage mandates.

25 (b) In this section, "limited offer of coverage plan" means
26 an evidence of coverage that, in whole or in part, does not provide
27 offer of coverage mandates.

1 (c) For purposes of this section, "offer of coverage
2 mandate" means coverage required under the Insurance Code or other
3 laws of this state to be provided in an evidence of coverage that:

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

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

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

12 (d) For purposes of this section, "offer of coverage
13 mandate" does not include coverage that is mandated by federal law
14 or standard provisions or rights required by the Insurance Code or
15 other law of this state to be provided in an evidence of coverage
16 that are unrelated to specific health illnesses, injuries, or
17 conditions of an insured, including provisions related to:

18 (1) continuation of coverage under Section 3B, Article
19 3.51-6, Insurance Code;

20 (2) termination of coverage under Articles 26.23 and
21 26.86, Insurance Code;

22 (3) preexisting conditions under Articles 26.49 and
23 26.90, Insurance Code;

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

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

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

1 (C) Article 26.21(n), Insurance Code;
2 (D) Article 26.21A, Insurance Code; and
3 (E) Article 26.84, Insurance Code; and
4 (5) coverage for serious mental illness under Article
5 3.51-14, Insurance Code.

6 (e) A health maintenance organization authorized to issue
7 an evidence of coverage in this state may offer one or more limited
8 offer of coverage plans.

9 (f) Each limited offer of coverage plan, written
10 application for enrollment in a limited offer of coverage plan, or
11 contract in which a proposed group or individual policyholder
12 chooses a limited offer of coverage plan must contain the following
13 language at the beginning of the document in bold type:

14 "You have the option to choose this Consumer
15 Choice of Benefits Health Maintenance Organization
16 health care plan that, either in whole or in part, does
17 not provide offer of coverage mandates normally
18 required in evidences of coverage in Texas. This
19 limited offer of coverage plan may provide a more
20 affordable health plan for you although, at the same
21 time, it may provide you with fewer health plan
22 benefits than those normally included as offer of
23 coverage mandates in evidences of coverage in Texas.
24 If you choose this limited offer of coverage plan,
25 please consult with your insurance agent to discover
26 which offer of coverage mandates are excluded in this
27 evidence of coverage."

1 (g) A health maintenance organization providing a limited
2 offer of coverage plan must provide a proposed enrollee or an
3 enrollee with a written disclosure statement that:

4 (1) acknowledges that the limited offer of coverage
5 plan being purchased does not provide some or all offer of coverage
6 mandates; and

7 (2) lists those offer of coverage mandates not
8 included in the limited offer of coverage plan.

9 (h) Each applicant for initial enrollment and each enrollee
10 on renewal must sign the disclosure statement provided by the
11 health maintenance organization under Subsection (g) of this
12 section and return the statement to the health maintenance
13 organization.

14 (i) A health maintenance organization must:

15 (1) retain the signed disclosure statement in the
16 organization's records; and

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

19 (j) The commissioner shall adopt rules as necessary to
20 implement this section.

21 (k) A health maintenance organization that offers one or
22 more limited offer of coverage plans under this section must also
23 offer at least one evidence of coverage that provides offer of
24 coverage mandates and that is otherwise authorized by the Insurance
25 Code.

26 (l) The commissioner may determine and prescribe
27 appropriate rates to be charged for a limited offer of coverage plan

1 offered under this section.

2 SECTION 3. Subsection (a), Article 26.42, Insurance Code,
3 is amended to read as follows:

4 (a) A small employer carrier shall offer the following two
5 health benefit plans as filed with and approved ~~[adopted]~~ by the
6 commissioner:

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

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

9 SECTION 4. Subsection (a), Article 26.43, Insurance Code,
10 is amended to read as follows:

11 (a) A ~~[The commissioner shall promulgate the benefits~~
12 ~~section of the catastrophic care benefit plan and the basic~~
13 ~~coverage benefit plan policy forms in accordance with Article~~
14 ~~26.44A of this code and shall develop prototype policies for each of~~
15 ~~the benefit plans. For all other portions of these policy forms, a]~~
16 small employer carrier shall comply with Article 3.42 of this code
17 as it relates to policy form approval and with the Texas Health
18 Maintenance Organization Act (Article 20A.01 et seq., Vernon's
19 Texas Insurance Code) as it relates to approval of an evidence of
20 coverage. A small employer carrier may not offer these benefit
21 plans through a policy form or evidence of coverage that does not
22 comply with this chapter.

23 SECTION 5. Subsections (a), (b), and (c), Article 26.44A,
24 Insurance Code, are amended to read as follows:

25 (a) The commissioner shall review and approve catastrophic
26 and basic plans developed by a small employer carrier ~~[by rule shall~~
27 ~~establish the coverage requirements for the catastrophic care~~

~~benefit plan and the basic coverage benefit plan. The commissioner shall develop prototype policies for use by small employer carriers that include all contractual provisions required to produce an entire contract in accordance with this article and this code].~~

(b) Coverage under the catastrophic care benefit plan must be designed to provide necessary coverage in the event of catastrophic illness or injury at an affordable price as determined by the commissioner. ~~[The commissioner shall establish deductibles and coinsurance requirements at levels that permit options for the insured to obtain affordable catastrophic coverage.]~~

(c) ~~[The commissioner by rule shall establish coverage requirements for the basic coverage benefit plan.]~~ Coverage under the basic coverage benefit plan must be designed to provide basic hospital, medical, and surgical coverages at an affordable price as determined by the commissioner. Benefits under the plan are limited to basic care requirements for illness and injury.

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

(a) A health maintenance organization may offer:

(1) a state-approved health benefit plan that complies with this chapter, the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), Title XIII, Public Health Service Act (42 U.S.C. Section 300e et seq.), and its subsequent amendments, and rules adopted under these laws;

(2) a plan developed by the commissioner under Article 26.44A of this code and additional benefit riders to the plan; ~~[or]~~

(3) a point-of-service contract in connection with an

1 insurance carrier that includes optional coverage for out-of-area
2 services, emergency care, or out-of-network care; or

3 (4) a limited offer of coverage plan under Section 9N,
4 Texas Health Maintenance Organization Act (Article 20A.09N,
5 Vernon's Texas Insurance Code).

6 SECTION 7. Subdivision (2), Section 843.002, Insurance
7 Code, as effective June 1, 2003, is amended to read as follows:

8 (2) "Basic health care services" means health care services
9 that the commissioner determines an enrolled population might
10 reasonably need to be maintained in good health[~~, including, at a~~
11 ~~minimum, services designated as basic health services under Section~~
12 ~~1302, Title XIII, Public Health Service Act (42 U.S.C. Section~~
13 ~~300e-1(1))].~~

14 SECTION 8. This Act takes effect September 1, 2003, and
15 applies only to an insurance policy, contract, or evidence of
16 coverage delivered, issued for delivery, or renewed on or after
17 January 1, 2004.