

By: Shapleigh

S.B. No. 1414

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for an enrollee with certain mental disorders.

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

ARTICLE 1. AMENDMENTS TO SUBCHAPTER A, CHAPTER 1355,

INSURANCE CODE

SECTION 1.01. Subchapter A, Chapter 1355, Insurance Code, as effective April 1, 2005, is amended to read as follows:

SUBCHAPTER A. ~~[GROUP]~~ HEALTH BENEFIT PLAN COVERAGE FOR

CERTAIN ~~[SERIOUS]~~ MENTAL DISORDERS ~~[ILLNESSES]~~

Sec. 1355.001. DEFINITIONS. In this subchapter, "mental disorder" ~~[+~~

~~[(1) "Serious mental illness"]~~ means a disorder ~~[the following psychiatric illnesses]~~ as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition, or in a subsequent edition of that manual that the commissioner adopts to take the place of the fourth edition or any subsequent edition for the purposes of this subdivision, that results in an impairment of a person's functioning in the person's community, employment, family, school, or social group ~~[(DSM)-~~

~~[(A) bipolar disorders (hypomanic, manic, depressive, and mixed),~~

~~[(B) depression in childhood and adolescence,~~

1                   ~~[(C) major depressive disorders (single episode~~  
2 ~~or recurrent);~~  
3                   ~~[(D) obsessive-compulsive disorders;~~  
4                   ~~[(E) paranoid and other psychotic disorders;~~  
5                   ~~[(F) pervasive developmental disorders;~~  
6                   ~~[(G) schizo-affective disorders (bipolar or~~  
7 ~~depressive); and~~  
8                   ~~[(H) schizophrenia].~~

9                   ~~[(2) "Small employer" has the meaning assigned by~~  
10 ~~Section 1501.002.]~~

11                   Sec. 1355.002. APPLICABILITY OF SUBCHAPTER.    (a) This  
12 subchapter applies only to a ~~[group]~~ health benefit plan that  
13 provides benefits for medical or surgical expenses incurred as a  
14 result of a health condition, accident, or sickness, including an  
15 individual, [+

16                   ~~[(1) a]~~ group, blanket, or franchise insurance policy  
17 or ~~[, group]~~ insurance agreement, a group hospital service  
18 contract, an individual or group evidence of coverage, or a similar  
19 coverage document, that is offered by:

20                   (1) ~~[(A)]~~ an insurance company;

21                   (2) ~~[(B)]~~ a group hospital service corporation  
22 operating under Chapter 842;

23                   (3) ~~[(C)]~~ a fraternal benefit society operating under  
24 Chapter 885;

25                   (4) ~~[(D)]~~ a stipulated premium company operating  
26 under Chapter 884; ~~[or]~~

27                   (5) ~~[(E)]~~ a health maintenance organization operating

1 under Chapter 843;

2 (6) a reciprocal exchange operating under Chapter 942;

3 (7) a Lloyd's plan operating under Chapter 941;

4 (8) an approved nonprofit health corporation that  
5 holds a certificate of authority under Chapter 844; or ~~and~~

6 (9) ~~(2) to the extent permitted by the Employee~~  
7 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~  
8 ~~seq.), a plan offered under:~~

9 ~~[(A)] a multiple employer welfare arrangement~~  
10 ~~that holds a certificate of authority under Chapter 846 [as defined~~  
11 ~~by Section 3 of that Act; or~~

12 ~~[(B) another analogous benefit arrangement].~~

13 (b) This subchapter applies to a small employer health  
14 benefit plan written under Chapter 1501.

15 Sec. 1355.003. EXCEPTION. ~~(a)~~ This subchapter does not  
16 apply to ~~coverage under~~:

17 (1) a plan that provides coverage:

18 (A) only for benefits for a specified disease or  
19 for another limited benefit, other than a plan that provides  
20 benefits for mental health or similar services;

21 (B) only for accidental death or dismemberment;

22 (C) for wages or payments in lieu of wages for a  
23 period during which an employee is absent from work because of  
24 sickness or injury;

25 (D) as a supplement to a liability insurance  
26 policy;

27 (E) only for dental or vision care;

1           (F) only for hospital expenses; or

2           (G) only for indemnity for hospital confinement;

3           (2) a Medicare supplemental policy as defined by  
4 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

5           (3) a workers' compensation insurance policy;

6           (4) medical payment insurance coverage provided under  
7 an automobile insurance policy;

8           (5) a credit insurance policy; or

9           (6) a long-term care insurance policy, including a  
10 nursing home fixed indemnity policy, unless the commissioner  
11 determines that the policy provides benefit coverage so  
12 comprehensive that the policy is a health benefit plan as described  
13 by Section 1355.002 [a blanket accident and health insurance  
14 policy, as described by Chapter 1251;

15           ~~[(2) a short-term travel policy;~~

16           ~~[(3) an accident-only policy;~~

17           ~~[(4) a limited or specified-disease policy that does~~  
18 ~~not provide benefits for mental health care or similar services;~~

19           ~~[(5) except as provided by Subsection (b), a plan~~  
20 ~~offered under Chapter 1551 or Chapter 1601;~~

21           ~~[(6) a plan offered in accordance with Section~~  
22 ~~1355.151; or~~

23           ~~[(7) a Medicare supplement benefit plan, as defined by~~  
24 ~~Section 1652.002].~~

25           ~~[(b) For the purposes of a plan described by Subsection~~  
26 ~~(a)(5), "serious mental illness" has the meaning assigned by~~  
27 ~~Section 1355.001.]~~

1           Sec. 1355.004. REQUIRED COVERAGE ~~[FOR SERIOUS MENTAL~~  
2 ~~ILLNESS]~~. ~~[(a)]~~ A ~~[group]~~ health benefit plan~~+~~

3                   ~~[(1)]~~ must provide coverage for the diagnosis and  
4 treatment of a mental disorder, under the same terms and conditions  
5 as coverage provided for the diagnosis and treatment of physical  
6 illness~~[, based on medical necessity, for not less than the~~  
7 ~~following treatments of serious mental illness in each calendar~~  
8 ~~year:~~

9                           ~~[(A) 45 days of inpatient treatment; and~~

10                           ~~[(B) 60 visits for outpatient treatment,~~  
11 ~~including group and individual outpatient treatment;~~

12                   ~~[(2) may not include a lifetime limitation on the~~  
13 ~~number of days of inpatient treatment or the number of visits for~~  
14 ~~outpatient treatment covered under the plan; and~~

15                   ~~[(3) must include the same amount limitations,~~  
16 ~~deductibles, copayments, and coinsurance factors for serious~~  
17 ~~mental illness as the plan includes for physical illness].~~

18           ~~[(b) A group health benefit plan issuer:~~

19                   ~~[(1) may not count an outpatient visit for medication~~  
20 ~~management against the number of outpatient visits required to be~~  
21 ~~covered under Subsection (a)(1)(B); and~~

22                   ~~[(2) must provide coverage for an outpatient visit~~  
23 ~~described by Subsection (a)(1)(B) under the same terms as the~~  
24 ~~coverage the issuer provides for an outpatient visit for the~~  
25 ~~treatment of physical illness.]~~

26           Sec. 1355.005. COVERAGE OF INPATIENT STAYS AND OUTPATIENT  
27 VISITS. A health benefit plan must cover inpatient stays and

1 outpatient visits under this subchapter under the same terms and  
2 conditions as the plan covers inpatient stays and outpatient visits  
3 for treatment of a physical illness. [~~MANAGED CARE PLAN~~  
4 ~~AUTHORIZED. A group health benefit plan issuer may provide or~~  
5 ~~offer coverage required by Section 1355.004 through a managed care~~  
6 ~~plan.~~]

7       Sec. 1355.006. AMOUNT LIMITS; DEDUCTIBLES; COPAYMENTS;  
8 COINSURANCE. Coverage provided under this subchapter must be  
9 subject to the same amount limits, deductibles, copayments, and  
10 coinsurance factors as coverage for physical illness. [~~COVERAGE FOR~~  
11 ~~CERTAIN CONDITIONS RELATED TO CONTROLLED SUBSTANCE OR MARIHUANA NOT~~  
12 ~~REQUIRED. (a) In this section, "controlled substance" and~~  
13 ~~"marihuana" have the meanings assigned by Section 481.002, Health~~  
14 ~~and Safety Code.~~

15       [~~(b) This subchapter does not require a group health benefit~~  
16 ~~plan to provide coverage for the treatment of:~~

17           [~~(1) addiction to a controlled substance or marihuana~~  
18 ~~that is used in violation of law; or~~

19           [~~(2) mental illness that results from the use of a~~  
20 ~~controlled substance or marihuana in violation of law.]~~

21       Sec. 1355.007. RULES. The commissioner shall adopt rules  
22 as necessary to implement this article. [~~SMALL EMPLOYER~~  
23 ~~COVERAGE. An issuer of a group health benefit plan to a small~~  
24 ~~employer must offer the coverage described by Section 1355.004 to~~  
25 ~~the employer but is not required to provide the coverage if the~~  
26 ~~employer rejects the coverage.]~~

27                   ARTICLE 2. CONFORMING AMENDMENTS

1 SECTION 2.01. Section 1355.151, Insurance Code, as  
2 effective April 1, 2005, is amended to read as follows:

3 Sec. 1355.151. PROHIBITION ON EXCLUSION OR LIMITATION OF  
4 CERTAIN COVERAGES. (a) In this section, "mental disorder"  
5 [~~"serious mental illness"~~] has the meaning assigned by Section  
6 1355.001.

7 (b) A political subdivision that provides group health  
8 insurance coverage, health maintenance organization coverage, or  
9 self-insured health care coverage to the political subdivision's  
10 officers or employees may not contract for or provide coverage that  
11 is less extensive for a mental disorder [~~serious mental illness~~]  
12 than the coverage provided for any [~~other~~] physical illness.

13 SECTION 2.02. Section 1551.003, Insurance Code, is amended  
14 by adding Subsection (10-a) to read as follows:

15 (10-a) "Mental disorder" has the meaning assigned by  
16 Section 1355.001.

17 SECTION 2.03. Section 1551.205, Insurance Code, is amended  
18 to read as follows:

19 Sec. 1551.205. LIMITATIONS. The board of trustees may not  
20 contract for or provide a coverage plan that:

21 (1) excludes or limits coverage or services for  
22 acquired immune deficiency syndrome, as defined by the Centers for  
23 Disease Control and Prevention of the United States Public Health  
24 Service, or human immunodeficiency virus infection;

25 (2) provides coverage for a mental disorder [~~serious~~  
26 ~~mental illness~~] that is less extensive than the coverage provided  
27 for any physical illness; or

1           (3) may provide coverage for prescription drugs to  
2 assist in stopping smoking at a lower benefit level than is provided  
3 for other prescription drugs.

4           SECTION 2.04. Section 1601.109, Insurance Code, is amended  
5 to read as follows:

6           Sec. 1601.109. COVERAGE FOR AIDS, HIV, OR [~~SERIOUS~~ MENTAL  
7 DISORDER [~~ILLNESS~~]. (a) In this section, "mental disorder"  
8 [~~"serious mental illness"~~] has the meaning assigned by Section  
9 1355.001 [~~1, Article 3.51-14~~].

10           (b) A system may not contract for or provide for group  
11 insurance or HMO coverage or provide self-insured coverage, that:

12           (1) excludes or limits coverage or services for  
13 acquired immune deficiency syndrome, as defined by the Centers for  
14 Disease Control and Prevention of the United States Public Health  
15 Service, or human immunodeficiency virus infection; or

16           (2) provides coverage for a mental disorder [~~serious~~  
17 ~~mental illness~~] that is less extensive than the coverage provided  
18 for any [~~other~~] physical illness.

19           SECTION 2.05. Section 3(b), Article 3.80, Insurance Code,  
20 is amended to read as follows:

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



(1) continuation of coverage under:

(A) Subchapters F and G, Chapter 1251 [~~Section 1(d)(3) and Section 3B, Article 3.51-6~~] of this code;

(B) Section 1201.059 of this code [~~2(C), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code)~~]; and

(C) Subchapter B, Chapter 1253 [~~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 Sections 1202.051 and 1501.108 [~~Articles 3.70-1A, 26.23, and 26.86~~] of this code;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105 [~~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) Subchapter D, Chapter 1251 [~~Sections 1, 3D, and 3E, Article 3.51-6~~] of this code;

(B) Sections 1201.053, 1201.061, 1201.063-1201.065, and Subchapter A, Chapter 1367, of this code [~~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)~~];

1 (C) Chapter 1504 [~~Subchapter J, Chapter 3~~] of  
2 this code;

3 (D) Chapter 1503 [~~Article 21.24-2~~] of this code;

4 (E) Section 1501.157 [~~Article 26.21(n)~~] of this  
5 code;

6 (F) Section 1501.158 [~~Article 26.21A~~] of this  
7 code; and

8 (G) Sections 1501.607-1501.609 [~~Article 26.84~~]  
9 of this code;

10 (5) services of practitioners under:

11 (A) Subchapters A, B, and C, Chapter 1451  
12 [~~Article 21.52~~] of this code; or

13 (B) Section 1301.052 [~~Article 3.70-3C~~] of this  
14 code[, ~~as added by Chapter 1260, Acts of the 75th Legislature,~~  
15 ~~Regular Session, 1997; or~~

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

19 (6) supplies and services associated with the  
20 treatment of diabetes under Subchapter B, Chapter 1358 [~~Article~~  
21 ~~21.53G~~] of this code;

22 (7) coverage for a mental disorder [~~serious mental~~  
23 ~~illness~~] under Subchapter A, Chapter 1355 [~~Article 3.51-14 of this~~  
24 ~~code if the standard health benefit plan is issued to a large~~  
25 ~~employer as defined by Article 26.02 of this code)];~~

26 (8) coverage for childhood immunizations and hearing  
27 screening as required by:

1                    (A) Subchapters B and C, Chapter 1367 [~~Article~~  
2 ~~21.53F~~] of this code, other than Section 1367.053(c); and

3                    (B) Chapter 1353 [~~as added by Chapter 683, Acts~~  
4 ~~of the 75th Legislature, Regular Session, 1997, and Article 21.53K~~]  
5 of this code;

6                    (9) coverage for reconstructive surgery for certain  
7 craniofacial abnormalities of children as required by Subchapter D,  
8 Chapter 1367 [~~Article 21.53W~~] of this code;

9                    (10) coverage for the dietary treatment of  
10 phenylketonuria as required by Chapter 1359 [~~Article 3.79~~] of this  
11 code;

12                    (11) coverage for referral to a non-network physician  
13 or provider when medically necessary covered services are not  
14 available through network physicians or providers, as required by  
15 Section 1271.055 [~~Article 20A.09(a)(3)(C)~~] of this code; and

16                    (12) coverage for cancer screenings under the  
17 following chapters [~~articles~~] of this code:

18                    (A) Chapter 1356 [~~Article 3.70-2(H), as added by~~  
19 ~~Chapter 1091, Acts of the 70th Legislature, Regular Session, 1987~~];

20                    (B) Chapter 1362 [~~Article 21.53F, as added by~~  
21 ~~Chapter 1287, Acts of the 75th Legislature, Regular Session, 1997~~];

22 and

23                    (C) Chapter 1363 [~~Article 21.53S~~].

24                    SECTION 2.06. Subsection (d), Article 20A.09N, Insurance  
25 Code, is amended to read as follows:

26                    (d) For purposes of this section, "state-mandated health  
27 benefits" does not include coverage that is mandated by federal law

1 or standard provisions or rights required under the Insurance Code  
2 or other law of this state to be provided in an evidence of coverage  
3 that are unrelated to specific health illnesses, injuries, or  
4 conditions of an insured, including provisions related to:

5 (1) continuation of coverage under Subchapter G,  
6 Chapter 1251 [~~Section 3B, Article 3.51-6~~], Insurance Code;

7 (2) termination of coverage under Sections 1202.051  
8 and 1501.108 [~~Articles 3.70-1A, 26.23, and 26.86~~], Insurance Code;

9 (3) preexisting conditions under Subchapter D,  
10 Chapter 1201, Insurance Code, and Sections 1501.102-1501.105,  
11 [~~Section 1(H), Chapter 397, Acts of the 54th Legislature, Regular~~  
12 ~~Session, 1955 (Article 3.70-1, Vernon's Texas Insurance Code), and~~  
13 ~~Articles 26.49 and 26.90,~~] Insurance Code;

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

16 (A) Chapter 1504 [~~Subchapter J, Chapter 3~~],  
17 Insurance Code;

18 (B) Chapter 1503 [~~Article 21.24-2~~], Insurance  
19 Code;

20 (C) Section 1501.157 [~~Article 26.21(n)~~],  
21 Insurance Code;

22 (D) Section 1501.158 [~~Article 26.21A~~], Insurance  
23 Code; and

24 (E) Sections 1501.607-1501.609 [~~Article 26.84~~],  
25 Insurance Code;

26 (5) services of providers under Section 843.304,  
27 Insurance Code [~~of this code~~];

1           (6) coverage for a mental disorder [~~serious mental~~  
2 ~~health illness~~] under Subchapter A, Chapter 1355 [~~Article 3.51-14~~],  
3 Insurance Code [~~, if the standard health benefit plan is issued to a~~  
4 ~~large employer as defined in Article 26.02, Insurance Code~~]; and

5           (7) coverage for cancer screenings under the following  
6 chapters [~~articles~~] of the Insurance Code [~~this code~~]:

7                   (A) Chapter 1356, Insurance Code [~~Article~~  
8 ~~3.70-2(H), as added by Chapter 1091, Acts of the 70th Legislature,~~  
9 ~~Regular Session, 1987~~];

10                   (B) Chapter 1362, Insurance Code [~~Article~~  
11 ~~21.53F, as added by Chapter 1287, Acts of the 75th Legislature,~~  
12 ~~Regular Session, 1997~~]; and

13                   (C) Chapter 1363, Insurance Code [~~Article~~  
14 ~~21.53S~~].

15           SECTION 2.07. Section 1551.003(12), Insurance Code, is  
16 repealed.

17                   ARTICLE 3. TRANSITION; EFFECTIVE DATE

18           SECTION 3.01. The change in law made by this Act applies  
19 only to a health benefit plan delivered, issued for delivery, or  
20 renewed on or after January 1, 2006. A health benefit plan  
21 delivered, issued for delivery, or renewed before January 1, 2006,  
22 is governed by the law as it existed immediately before the  
23 effective date of this Act, and that law is continued in effect for  
24 that purpose.

25           SECTION 3.02. To the extent of any conflict, this Act  
26 prevails over another Act of the 79th Legislature, Regular Session,  
27 2005, relating to nonsubstantive additions to and corrections in

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1 enacted codes (the General Code Update bill).

2 SECTION 3.03. This Act takes effect September 1, 2005.