

BILL ANALYSIS

C.S.H.B. 1847
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under the Texas Insurance Code, insurance companies must file policy forms for life, accident, health, and long-term care insurance for approval by the Texas Department of Insurance. Many companies doing business in Texas have been able to get policy forms approved in other states that include non-insurance type benefits as part of the policy. Examples of non-insurance benefits include discount cards for health, vision, dental, prescriptions, physical fitness programs or facilities or other similar programs; financial planning, will preparation or similar services; or contributions for educational savings on behalf of a policyholder or certificate holder. The Texas Department of Insurance has been reluctant to approve policy forms that include non-insurance benefits in the absence of specific statutory authority.

C.S.H.B. 1847 clarifies that non-insurance benefits can be approved as part of a life, health, accident, or long-term care policy. Including such benefits will provide additional benefits to consumers, and encourage competition among insurers. Non-insurance benefits will be required to be reasonably related to the type of policy being filed. By including such benefits in a policy, this avoids any issue that giving these benefits at no cost would not constitute a rebate. It also provides consumers with clear identification of certain goods and services that will be provided.

C.S.H.B. 1847, also provides an exception to Insurance Code Section 1102.002. This section requires benefits to be payable in currency. Some types of non-insurance benefits that are available to insurance consumers in other states such as discount cards, will preparation, and other services do not involve payments in currency.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 1 (Section 1701.061 of the Texas Insurance Code) of this bill.

ANALYSIS

C.S.H.B. 1847 relates to certain noninsurance benefits and related services for accident, health, life, and long-term care insurance.

C.S.H.B. 1847, in SECTION 1, seeks to amend Subchapter B, Chapter 1701 of the Texas Insurance Code by adding Section 1701.061 which discusses noninsurance benefits. The bill states that, in this section, "noninsurance benefit" means a good or service provided or disclosed as part of a policy or certificate of insurance that is reasonably related to the type of policy or certificate being issued. The bill gives examples of what noninsurance benefits include such as discount cards for health care programs, vision care programs, dental care programs, prescriptions, physical fitness programs or facilities, or other similar program; financial planning, will preparation, or similar services; and contributions for education savings on behalf of a policyholder or certificate holder.

The next subsection, Subsection (b), states that an insurer may include a noninsurance benefit that is reasonably related to a policy or certificate as part of the policy or certificate form to be issued to an insured or certificate holder.

Next, Subsection (c) says that policy filings that includes a noninsurance benefit shall include a description of the non-insurance benefit, a full disclosure to the policyholder or certificate holder, and an explanation of any conditions upon which termination of the non-insurance benefit will occur. Also, Section 541.061 applies to a noninsurance benefit provided as part of a policy or certificate. Section 1102.002, Insurance Code, does not apply to a noninsurance benefit provided as part of a policy or certificate.

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Finally, Subsection (f) of Section 1701.061 in C.S.H.B 1847 states that the commissioner may adopt rules to implement this section, including rules to determine which noninsurance benefits are reasonably related to the types of insurance subject to this chapter, ensure that noninsurance benefits included as part of a policy or certificate are not unfairly deceptive, or do not otherwise constitute a prohibited inducement and address the application of other chapters of this code to noninsurance benefits provided as part of a policy or certificate.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B 1847 amends the original house bill in several ways. First, the "relating to" language in the original house bill is changed by the substitute. C.S.H.B 1847 states that it relates to certain noninsurance benefits and related services for accident, health, life, and long-term care insurance, while the original house bill stated that it related to related services and ancillary benefits for accident, health, life and long-term care insurance.

The original house bill as filed, amends Section 541.058, Insurance Code, to clarify that it is not a rebate if an insurer or health maintenance organization in connection with an accident or health insurance policy to provide health related services, information, or other programs promoting wellness, health, disease prevention, or health maintenance to existing or prospective policyholders or enrollees in addition to the insurance contract. However, C.S.H.B 1847 does not amend Section 541.058 of the Texas Insurance Code.

Next, the originally house bill amended Chapter 1701, Insurance Code, by adding Section 1701.061 to define an ancillary benefit as a good or service provided or disclosed as part of a policy or certificate of insurance that is reasonably related to the type of policy or certificate. An insurer is allowed to include ancillary benefits as part of the policy or certificate to the insured. The Texas Department of Insurance is required to apply a liberal construction in reviewing the relationship of ancillary benefits to the policy to allow the inclusion of benefits in a specific or more general manner. The department is required to approve the filings that include the ancillary benefit if the benefit is reasonably related to the policy or certificate. Section 1102.002 is not applicable to an ancillary benefit provided as part of the policy or certificate. An ancillary benefit approved in a policy of insurance does not violate Section 541.056(a) or 541.057, Insurance Code. However, C.S.H.B. 1847 only adds Section 1701.061 to define non-insurance benefits, as opposed to an ancillary benefit, and clarifies that they may be included as part of a policy or certificate form to be issued to an insured if it is reasonably related to the policy or certificate. It further lays out examples of non-insurance benefits and specifies that a policy form filing that includes a non-insurance benefit is required to include a description of the non-insurance benefit, a notice that fully discloses the benefit to the policyholder, and an explanation of any conditions upon which the termination of the benefit will occur. C.S.H.B 1847 states that the Commissioner of Insurance may adopt rules to implement this section.