

BILL ANALYSIS

Senate Research Center

H.B. 2548
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many health benefit plans exclude coverage for pre-existing conditions. Certain health benefit plan coverage provides creditable coverage to a person against a pre-existing condition exclusion if the person moves to a new health benefit plan. This provides portability so that pre-existing provisions can be covered under the new policy and encourages persons to purchase and maintain qualified health benefit plan coverage. Both group and individual health carriers are required to credit a person's qualified coverage, but an individual carrier is required to do so only if the person's most recent creditable coverage was under a group health plan, a governmental plan, or a church plan. This disparity in coverage credit between group and individual plans produces some inequitable results. For example, if a person loses individual coverage because his carrier withdraws from the market, then a new individual carrier covering that person would not have to credit the person's most recent individual coverage.

The Texas Health Insurance Risk Pool (pool) deems an individual ineligible for pool coverage under a number of circumstances, one of which is eligibility for COBRA coverage. This restriction lasts for the entire COBRA eligibility period, a minimum of 18 months, even though the individual has only 60 days to elect to use COBRA coverage. The restriction produces an inflexible situation for individuals who fail to elect to use COBRA as a result of temporary economic distress or other legitimate reasons. For example, an individual, after termination of employment, may have the right to elect to use COBRA, but may not do so because of the cost of continuing the coverage. If the individual obtains a job after 90 days and can then afford coverage, it is too late to elect to use COBRA coverage, and if the individual tries to enroll in the pool, such individual will be legally barred until COBRA eligibility expires.

Current law also deems an individual ineligible for pool coverage if the individual is eligible for health benefit plan coverage provided in connection with a policy, plan, or program paid for or sponsored by an employer, even if the individual declines the employer coverage.

While the restriction preserves the integrity of employer market coverage and is consistent with the pool's position as the insurer of last resort in Texas, it also poses a policy question, particularly when the employer's plan provides coverage that is more limited than pool coverage. Reports of employer plans offering limited coverage are increasing. The pool reported a recent example of an enrollee with a disability who obtained employment with an employer that had limited benefit coverage, thus forcing the person to choose between maintaining employment and losing pool coverage, or resigning employment to maintain pool eligibility.

H.B. 2548 amends Section 1201.154(b), Insurance Code, to remove the restriction of Subsection (b)(2), which conforms the standard for crediting coverage in the individual market to the standard in the group market and resolves potential inequities for persons losing individual health benefit plan coverage.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.154(b), Insurance Code, to delete existing text prohibiting a preexisting condition provision in an individual accident and health insurance policy from

applying to an individual whose most recent creditable coverage was under a group health plan, a governmental plan, or a church plan.

SECTION 2. Amends Section 1506.153, Insurance Code, as amended by Chapters 728 and 824, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Sec. 1506.153. INELIGIBILITY FOR COVERAGE. (a) Creates this subsection from existing text. Provides that an individual is not eligible for coverage from the Texas Health Insurance Risk Pool (pool) if the individual is confined in a county jail or imprisoned in a state, but not a federal prison, and provides that the paragraph providing that an individual is not eligible for such coverage if the individual is eligible for health benefit plan coverage provided in connection with a policy, plan, or program paid for or sponsored by an employer, even if employer coverage is declined, does not apply to an individual who is a part-time employee eligible to participate in an employer plan which provides certain health benefit coverage, notwithstanding Sections 1506.152(a)-(c), rather than 1506.152(a)-(d) (Subsection (d) provides for a form to be used for the certification of certain legally domiciled residents of this state). Makes a conforming change.

(b) Provides that an individual who is eligible for benefits from the continuation of coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.), as amended (COBRA), who did not elect continuation of coverage during the election period, is eligible for pool coverage provided that such eligibility is subject to a 180-day exclusion of coverage pursuant to Section 1506.155(a-1).

SECTION 3. Amends Section 1506.155, Insurance Code, by adding Subsection (a-1) to provide that pool coverage for an individual eligible pursuant to Section 1506.153(b) excludes charges or expenses incurred before the expiration of 180 days from the coverage's effective date with regard to any condition for which the existence of symptoms would cause an ordinarily prudent person to seek diagnosis, care, or treatment within the six-month period preceding the coverage's effective date; or medical advice, care, or treatment was recommended or received during the six-month period preceding the coverage's effective date, except as provided by Section 1506.056.

SECTION 4. Effective date: upon passage or September 1, 2007.