

## **BILL ANALYSIS**

H.B. 2548

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Insurance

Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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 credit provides “portability” so that the 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 must credit a person’s qualified coverage, but an individual carrier must do so only if the person’s most recent creditable coverage was under a group health plan, a governmental plan, or a church plan. The 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.

This bill amends Subsection (b), Section 1201.154 of the Insurance Code to remove the subsection (b)(2) restriction, which would conform the standard for crediting coverage in the individual market to the standard in the group market and resolve potential inequities for persons losing individual health benefit plan coverage.

Regarding the Texas Health Insurance Risk Pool (Pool), Insurance Code Section 1506.153 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 COBRA coverage.

This restriction produces an inflexible situation for individuals who fail to elect COBRA as a result of temporary economic distress or other legitimate reasons. For example, an individual, after termination of the employment relationship, may have the right to elect COBRA, but may not do so because of the cost of continuing the coverage. If the individual gets a job after 90 days and can then afford coverage, it is too late to elect COBRA coverage, and if the individual tries to enroll in the Pool, such individual will be legally barred until the COBRA eligibility expires.

Further regarding the Pool, Insurance Code Section 1506.153 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 this 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 reports a recent example of an enrollee with a disability who obtained employment with an employer that had very limited benefit coverage, so the person was forced to choose between maintaining employment and losing Pool coverage, or resigning employment to maintain Pool eligibility.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

## **ANALYSIS**

SECTION 1 of the bill amends Subsection (b), Section 1201.154 of the Texas Insurance Code to remove the Subsection (b)(2) restriction which would conform the standard for crediting coverage in the individual market to the standard in the group market and resolve potential inequities for persons losing individual health benefit plan coverage.

SECTIONS 2 through 4 of the bill amend Section 1506.153 and Section 1506.155 of the Insurance Code to allow individuals to enroll in Pool coverage prior to the end of their COBRA eligibility while authorizing the Pool to impose an automatic six-month exclusion of coverage of any pre-existing conditions the individual might have, regardless of the amount of the individual's creditable coverage. Further, the amendments provide that an employee may choose between the employer-sponsored plan and Pool coverage.

## **EFFECTIVE DATE**

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