

By: Smith of Tarrant

H.B. No. 1919

A BILL TO BE ENTITLED

1 AN ACT

2 relating to health benefit plan coverage for treatment for certain
3 brain injuries.

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

5 SECTION 1. Section 1352.001, Insurance Code, is amended to
6 read as follows:

7 Sec. 1352.001. APPLICABILITY OF CHAPTER. (a) This chapter
8 applies only to a health benefit plan, including a small employer
9 health benefit plan written under Chapter 1501, that provides
10 benefits for medical or surgical expenses incurred as a result of a
11 health condition, accident, or sickness, including an individual,
12 group, blanket, or franchise insurance policy or insurance
13 agreement, a group hospital service contract, or an individual or
14 group evidence of coverage or similar coverage document that is
15 offered by:

16 (1) an insurance company;

17 (2) a group hospital service corporation operating
18 under Chapter 842;

19 (3) a fraternal benefit society operating under
20 Chapter 885;

21 (4) a stipulated premium company operating under
22 Chapter 884;

23 (5) a reciprocal exchange operating under Chapter 942;

24 (6) a Lloyd's plan operating under Chapter 941;

1 (7) a health maintenance organization operating under
2 Chapter 843;

3 (8) a multiple employer welfare arrangement that holds
4 a certificate of authority under Chapter 846; or

5 (9) an approved nonprofit health corporation that
6 holds a certificate of authority under Chapter 844.

7 (b) Notwithstanding Section 172.014, Local Government Code,
8 or any other law, this chapter applies to health and accident
9 coverage provided by a risk pool created under Chapter 172, Local
10 Government Code.

11 (c) Notwithstanding any provision in Chapter 1551, 1575,
12 1579, or 1601 or any other law, this chapter applies to:

13 (1) a basic coverage plan under Chapter 1551;

14 (2) a basic plan under Chapter 1575;

15 (3) a primary care coverage plan under Chapter 1579;

16 and

17 (4) basic coverage under Chapter 1601.

18 SECTION 2. Section 1352.003, Insurance Code, is amended to
19 read as follows:

20 Sec. 1352.003. REQUIRED COVERAGES [~~EXCLUSION OF COVERAGE~~
21 ~~PROHIBITED~~]. (a) A health benefit plan must include [~~may not~~
22 ~~exclude~~] coverage for cognitive rehabilitation therapy, cognitive
23 communication therapy, neurocognitive therapy and rehabilitation,
24 neurobehavioral, neurophysiological, neuropsychological, or
25 psychophysiological testing or treatment, neurofeedback therapy,
26 or remediation required for and related to treatment of an acquired
27 brain injury.

1 (b) A health benefit plan must include coverage for [7]
2 post-acute transition services, outpatient day treatment services,
3 ~~[or]~~ community reintegration services, or other analogous
4 post-acute care treatment services necessary as a result of and
5 related to an acquired brain injury.

6 (c) A health benefit plan may not include, in any lifetime
7 limitation on the number of days of acute care treatment covered
8 under the plan, any post-acute care treatment covered under the
9 plan. Any limitation imposed under the plan on days of post-acute
10 care treatment must be separately stated in the plan.

11 (d) A health benefit plan must include the same payment
12 limitations, deductibles, copayments, and coinsurance factors for
13 coverage [(b) Coverage] required under this chapter as [may be
14 subject to deductibles, copayments, coinsurance, or annual or
15 maximum payment limits that are consistent with the deductibles,
16 copayments, coinsurance, or annual or maximum payment limits]
17 applicable to other similar coverage provided under the health
18 benefit plan.

19 (e) To ensure that appropriate post-acute care treatment is
20 provided, a health benefit plan must include coverage for
21 reasonable expenses related to periodic reevaluation of the care of
22 an individual covered under the plan who has:

- 23 (1) incurred an acquired brain injury;
24 (2) been unresponsive to initial treatment; and
25 (3) been institutionalized in a nursing home or other
26 analogous care facility.

27 (f) [~~e~~] The commissioner shall adopt rules as necessary

1 to implement this chapter [~~section~~].

2 SECTION 3. Section 1352.004(b), Insurance Code, is amended
3 to read as follows:

4 (b) The commissioner by rule shall require a health benefit
5 plan issuer to provide adequate training to personnel responsible
6 for preauthorization of coverage or utilization review under the
7 plan. The purpose of the training is to prevent denial of coverage
8 in violation of Section 1352.003 and to avoid confusion of medical
9 benefits with mental health benefits. The commissioner, in
10 consultation with the Texas Traumatic Brain Injury Advisory
11 Council, shall prescribe by rule the basic requirements for the
12 training described by this subsection.

13 SECTION 4. Chapter 1352, Insurance Code, is amended by
14 adding Sections 1352.005, 1352.006, 1352.007, and 1352.008 to read
15 as follows:

16 Sec. 1352.005. NOTICE TO INSURED AND ENROLLEES. (a) A
17 health benefit plan issuer subject to this chapter must notify each
18 insured or enrollee under the plan in writing about the coverages
19 described by Section 1352.003.

20 (b) The commissioner, in consultation with the Texas
21 Traumatic Brain Injury Advisory Council, shall prescribe by rule
22 the specific contents and wording of the notice required under this
23 section.

24 (c) The notice required under this section must include:

25 (1) a description of the benefits listed under Section
26 1352.003;

27 (2) a statement that the fact that an acquired brain

1 injury does not result in hospitalization or receipt of a specific
2 treatment or service described by Section 1352.003 for acute care
3 treatment does not affect the right of the insured or enrollee to
4 receive benefits described by Section 1352.003 commensurate with
5 the condition of the insured or enrollee; and

6 (3) a statement of the fact that benefits described by
7 Section 1352.003 may be provided in a facility listed in Section
8 1352.007.

9 (d) The notice described by this section must be provided:

10 (1) on issuance or renewal of the health benefit plan;
11 and

12 (2) not later than the 10th day after the date on which
13 the health benefit plan issuer receives a claim for coverage for
14 treatment that would reasonably indicate that the insured or
15 enrollee has incurred an acquired brain injury.

16 Sec. 1352.006. DETERMINATION OF MEDICAL NECESSITY;
17 EXTENSION OF COVERAGE. (a) In this section, "utilization review"
18 has the meaning assigned by Section 4201.002.

19 (b) Notwithstanding Chapter 4201 or any other law relating
20 to the determination of medical necessity under this code, a health
21 benefit plan shall respond to a person requesting utilization
22 review or appealing for an extension of coverage based on an
23 allegation of medical necessity not later than two business days
24 after the date on which the person makes the request or submits the
25 appeal. The person must make the request or submit the appeal in
26 the manner prescribed by the terms of the plan's health insurance
27 policy or agreement, contract, evidence of coverage, or similar

1 coverage document. To comply with the requirements of this
2 section, the health benefit plan issuer must respond through a
3 direct telephone contact made by a representative of the issuer.

4 (c) Notwithstanding Section 4201.152 or any other law of
5 this state, a physician or other health care practitioner who
6 determines the medical necessity of a health care service provided
7 under this chapter to a resident of this state must be licensed to
8 practice in this state.

9 Sec. 1352.007. TREATMENT FACILITIES. (a) Treatment for an
10 acquired brain injury may be provided under the coverage required
11 by this chapter, as appropriate, at:

12 (1) a hospital regulated under Chapter 241, Health and
13 Safety Code, including an acute rehabilitation hospital;

14 (2) an assisted living facility regulated under
15 Chapter 247, Health and Safety Code;

16 (3) a nursing home regulated under Chapter 242, Health
17 and Safety Code;

18 (4) a community home;

19 (5) an acute or post-acute rehabilitation facility,
20 including a residential or outpatient facility;

21 (6) a medical office; or

22 (7) another analogous facility at which appropriate
23 services may be provided.

24 (b) A health benefit plan may not deny coverage under this
25 chapter solely because the treatment or services are provided at a
26 facility other than a hospital.

27 Sec. 1352.008. CONSUMER INFORMATION. The commissioner

1 shall prepare information for use by consumers, purchasers of
2 health benefit plan coverage, and self-insurers regarding
3 coverages recommended for acquired brain injuries. The department
4 shall publish information prepared under this section on the
5 department's Internet website.

6 SECTION 5. Section 1507.004, Insurance Code, is amended by
7 adding Subsection (d) to read as follows:

8 (d) A standard health benefit plan must include coverage as
9 required by Chapter 1352 for treatment for an acquired brain
10 injury.

11 SECTION 6. The heading to Section 1507.004, Insurance Code,
12 is amended to read as follows:

13 Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
14 MINIMUM REQUIREMENTS [~~REQUIREMENT~~].

15 SECTION 7. Section 1507.054, Insurance Code, is amended to
16 read as follows:

17 Sec. 1507.054. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
18 MINIMUM REQUIREMENT. (a) A health maintenance organization
19 authorized to issue an evidence of coverage in this state may offer
20 one or more standard health benefit plans.

21 (b) A standard health benefit plan must include coverage as
22 required by Chapter 1352 for treatment for an acquired brain
23 injury.

24 SECTION 8. This Act applies only to a health benefit plan
25 delivered, issued for delivery, or renewed on or after January 1,
26 2008. A health benefit plan delivered, issued for delivery, or
27 renewed before January 1, 2008, is governed by the law as it existed

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1 immediately before the effective date of this Act, and that law is
2 continued in effect for that purpose.

3 SECTION 9. This Act takes effect September 1, 2007.