

By: Castro

H.B. No. 3963

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas state health benefit plan program; providing a penalty.

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

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. TEXAS STATE HEALTH BENEFIT PLAN PROGRAM

CHAPTER 1675. GENERAL PROVISIONS

Sec. 1675.001. SHORT TITLE. This subtitle may be cited as the Texas State Health Benefit Plan Program Act.

Sec. 1675.002. DEFINITIONS. In this subtitle:

(1) "Eligible employee" means a person who works 100 or more hours per month for any one employer and who has worked for that employer for 90 or more days. The term includes a sole proprietor or a partner of a partnership if the sole proprietor or partner works 100 or more hours per month for the proprietorship or partnership.

(2) "Enrollee" means an individual who is not covered by a health benefit plan provided by an employer under Chapter 1676 and who is eligible to participate in the program.

(3) "Fund" means the Texas state health benefit plan purchasing fund.

(4) "Health benefit plan" has the meaning assigned by Section 1501.002.

1 (5) "Insurer" means an insurance company or other
2 entity subject to this title.

3 (6) "Principal employer" means the employer for which
4 an enrollee works the greatest number of hours in a month.

5 (7) "Program" means the health benefit plan program
6 established under Chapter 1677 and includes the purchasing pool
7 through which health benefit coverage is provided to enrollees.

8 Sec. 1675.003. CONSTRUCTION WITH OTHER LAW. This subtitle
9 may not be construed to:

10 (1) diminish any protection provided to an eligible
11 employee through a collective bargaining agreement or
12 employer-sponsored health insurance that is more favorable to the
13 employee than the health benefit coverage required by this
14 subtitle;

15 (2) prohibit an employer from purchasing benefits for
16 eligible employees in addition to those required by this subtitle;
17 or

18 (3) diminish or negatively impact existing legal
19 protections for individuals eligible to receive public assistance
20 or to participate in public health or public health insurance
21 programs.

22 Sec. 1675.004. INQUIRIES. The department and the Texas
23 Workforce Commission may address a reasonable inquiry necessary to
24 implement or enforce this subtitle to any employer in this state.
25 For purposes of this section, a reasonable inquiry includes an
26 inquiry that requests an employer to report to the department or the
27 Texas Workforce Commission the number of eligible employees

1 employed by the employer.

2 Sec. 1675.005. INTERAGENCY COOPERATION. The department and
3 the Texas Workforce Commission shall cooperate and enter into
4 interagency agreements as necessary to implement and enforce this
5 subtitle.

6 Sec. 1675.006. PROHIBITED EMPLOYER ACTS; PENALTY. (a) An
7 employer may not designate an employee as an independent contractor
8 or temporary employee, reduce an employee's hours of work, or
9 terminate and rehire an employee in order to avoid the employer's
10 obligations under this subtitle.

11 (b) An employer who violates this section is subject to an
12 administrative penalty under Chapter 84. An administrative penalty
13 collected under this subsection shall be deposited in the fund.

14 Sec. 1675.007. PROHIBITED EMPLOYER INQUIRIES. An employer
15 may not request or otherwise seek to obtain information concerning
16 income or other eligibility requirements for a public health or
17 public health insurance program regarding an eligible employee
18 unless the employer is authorized to seek or obtain the information
19 under another state law or federal law. For purposes of this
20 section, "public health or public health insurance program" has the
21 meaning assigned by Section 1677.003(a).

22 Sec. 1675.008. IMPLEMENTATION CONSULTATIONS. In
23 implementing this subtitle, the department shall consult with
24 organizations representing the interests of eligible employees,
25 including advocacy organizations, health care providers, and
26 public health and public health insurance programs.

27 Sec. 1675.009. RULES. The commissioner and the Texas

1 Workforce Commission shall each adopt rules as necessary to
2 implement and enforce this subtitle, including rules necessary to
3 facilitate enrollee participation in the program if an employer
4 fails to provide sufficient enrollment information.

5 CHAPTER 1676. HEALTH BENEFIT PLAN REQUIREMENTS FOR CERTAIN
6 EMPLOYERS

7 Sec. 1676.001. APPLICABILITY. This chapter applies only to
8 an employer that employed an average of 10 or more individuals in
9 the calendar year immediately preceding the plan year.

10 Sec. 1676.002. HEALTH BENEFIT PLAN REQUIRED FOR CERTAIN
11 EMPLOYEES. (a) An employer shall provide to each eligible employee
12 health benefit plan coverage that is at least as benefit-rich as the
13 minimum coverage required under Section 1676.003.

14 (b) An employer must comply with Subsection (a) with
15 reference only to eligible employees for whom the employer is the
16 principal employer.

17 Sec. 1676.003. MINIMUM COVERAGE. For purposes of this
18 chapter, a health benefit plan provided by an employer to eligible
19 employees must entitle a covered individual to at least:

- 20 (1) six doctor visits per plan year;
21 (2) seven days of hospitalization per plan year; and
22 (3) two prescriptions per month for each month
23 included in a plan year.

24 Sec. 1676.004. EMPLOYER PAYMENT FOR NONCOMPLIANCE. An
25 employer that does not comply with Section 1676.002 shall pay to the
26 fund an amount equal to \$50 per month per calendar year multiplied
27 by the number of eligible employees for whom the employer is

1 required to provide health benefit plan coverage but fails to
2 provide coverage.

3 CHAPTER 1677. TEXAS STATE HEALTH BENEFIT PLAN PURCHASING PROGRAM

4 Sec. 1677.001. PROGRAM AND FUND ESTABLISHED. (a) The Texas
5 state health benefit plan purchasing program is created as a health
6 benefit coverage program to be managed and administered by the
7 department.

8 (b) The Texas state health benefit plan purchasing fund is
9 established as a trust fund outside the state treasury to be held by
10 the comptroller and administered by the department.

11 (c) Money in the fund may be used only for the
12 administration and operation of the program established under this
13 subtitle.

14 Sec. 1677.002. PROGRAM ADMINISTRATION. (a) The department
15 shall administer the program in a manner that ensures the prompt
16 delivery of benefits and services to enrollees.

17 (b) The department shall act as the sole fiduciary of the
18 program, including acting as the fiduciary of the fund.

19 (c) The department has exclusive responsibility over
20 contract, budget, and personnel matters relating to the program.

21 Sec. 1677.003. ELIGIBILITY TO PARTICIPATE; COORDINATION
22 WITH PUBLIC PROGRAMS. (a) In this section, "public health or
23 public health insurance program" means any program funded wholly or
24 partly with federal or state funds that provides health care
25 services, health insurance benefits or coverage, or similar
26 benefits or coverage to eligible individuals.

27 (b) An enrollee who is otherwise eligible to participate in

1 the program is not eligible to participate in the program if the
2 enrollee:

3 (1) is eligible to participate in a public health or
4 public health insurance program; or

5 (2) has an income that is 300 percent or more of the
6 federal poverty guidelines, adjusted for family size.

7 (c) The department may not require an employer to obtain
8 from an enrollee, and an employer may not request from an enrollee,
9 information relating to an enrollee's family income or other
10 eligibility to participate in a public health or public health
11 insurance program.

12 (d) The department shall determine which enrollees are or
13 might be eligible to participate in a public health or public health
14 insurance program. On determining that an enrollee is eligible to
15 participate in a public health or public health insurance program,
16 unless the enrollee specifically waives coverage in the public
17 health or public health insurance program for which the enrollee is
18 eligible, the department shall enroll the enrollee in the
19 appropriate public health or public health insurance program.

20 (e) The department may request reasonable information from
21 an enrollee to determine the eligibility of the enrollee to
22 participate in a public health or public health insurance program.

23 (f) The department and the Health and Human Services
24 Commission shall cooperate as necessary to:

25 (1) determine the eligibility of an enrollee to
26 participate in a public health program or public health insurance
27 program;

1 (2) provide enrollees information concerning public
2 health or public health insurance programs in this state; and

3 (3) implement this section and subtitle.

4 (g) An agency administering a public health or public health
5 insurance program shall make all changes to the program necessary
6 to maximize the amount of any federal financial participation that
7 is available to the public health or public health insurance
8 program.

9 (h) This section may not be construed to prevent an agency
10 administering a public health or public health insurance program in
11 this state from verifying an individual's eligibility as required
12 by state or federal law.

13 Sec. 1677.004. PROVISION OF COVERAGE THROUGH PROGRAM. (a)
14 The department shall arrange for health benefit coverage for
15 enrollees by establishing and maintaining a purchasing pool.

16 (b) The department shall provide health benefit coverage
17 under this subtitle by negotiating contracts with insurers that
18 offer health benefit plans that comply with the requirements of
19 this subtitle. The department may not self-insure or partially
20 self-insure any portion of the health care benefits provided to
21 enrollees.

22 (c) Notwithstanding any other law, a contract entered by the
23 department under this section is not subject to any competitive
24 bidding requirements.

25 (d) Coverage provided under the program must be at least as
26 benefit-rich as the minimum coverage required under Section
27 1676.003.

1 (e) The department shall encourage insurers with which the
2 department contracts under this subtitle to:

3 (1) use appropriate cost containment measures that
4 maximize the cost-effectiveness of coverage offered under the
5 program; and

6 (2) develop innovative approaches, services, and
7 programs that have the potential to deliver health care in a manner
8 that is both cost-effective and responsive to the needs of
9 enrollees.

10 Sec. 1677.005. COVERAGE NOT CONDITIONAL; WAIVER OF
11 COVERAGE. (a) Coverage under the program for an enrollee is not
12 contingent on the enrollee's employer:

13 (1) paying the fee required by Section 1676.004; or

14 (2) providing enrollment information concerning the
15 enrollee.

16 (b) An enrollee may waive coverage under the program for the
17 enrollee in the manner prescribed by the commissioner by rule. An
18 enrollee who waives coverage under the program also waives
19 participation in any public health or public health insurance
20 program in which the enrollee would be enrolled under Section
21 1677.003.

22 Sec. 1677.006. DEDUCTIBLES, COPAYMENTS, AND OTHER
23 OUT-OF-POCKET EXPENSES. (a) The commissioner by rule shall
24 determine the maximum required enrollee deductibles, coinsurance,
25 or copayment levels for specific benefits and total annual
26 out-of-pocket limits for health insurance policies, evidences of
27 coverage, or other similar arrangements through which health

1 benefit coverage is provided under this subtitle.

2 (b) The commissioner shall require health insurance
3 policies, evidences of coverage, or other similar arrangements
4 through which health benefit coverage is provided under this
5 subtitle to charge enrollees only the deductibles, coinsurance, or
6 copayment levels and total annual out-of-pocket expenses
7 determined by the commissioner under Subsection (a).

8 Sec. 1677.007. PROGRAM FUNDING. (a) The department shall
9 fund the program through the employer payments collected under
10 Section 1676.004.

11 (b) The department shall ensure that the program is
12 structured in a manner that the revenue described by Subsection (a)
13 is sufficient to cover all program costs, including administrative
14 costs.

15 SECTION 2. (a) The commissioner of insurance and the Texas
16 Workforce Commission shall adopt rules as necessary for the
17 implementation and enforcement of Subtitle J, Title 8, Insurance
18 Code, as added by this Act, as soon as possible but not later than
19 November 1, 2007.

20 (b) The Texas Department of Insurance and the Texas
21 Workforce Commission shall implement the Texas state health benefit
22 plan program under Subtitle J, Title 8, Insurance Code, as added by
23 this Act, as soon as possible but not later than January 1, 2008.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2007.