

By: Ellis, Van de Putte

S.B. No. 568

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to group health benefit plan coverage for an enrollee with certain mental disorders.

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

SECTION 1. The heading to Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

SUBCHAPTER A. [~~GROUP~~] HEALTH BENEFIT PLAN COVERAGE FOR CERTAIN MENTAL DISORDERS AND SERIOUS MENTAL ILLNESSES

SECTION 2. Subchapter A, Chapter 1355, Insurance Code, is amended by amending Section 1355.001 and by adding Section 1355.0015 to read as follows:

Sec. 1355.001. PURPOSE. The legislature recognizes that mental illnesses are biologically based and treatable and that, with appropriate care, individuals with mental illness can live productive and successful lives. The purpose of this subchapter is to ensure that this recognition is reflected in group health benefit plans by requiring that the benefits provided for mental disorders be equal to those provided for other medical and surgical conditions.

Sec. 1355.0015. DEFINITIONS. In this subchapter:

(1) "Enrollee" means an individual who is enrolled in a group health benefit plan, including a covered dependent.

(2) "Mental disorder" means a disorder defined by the American Psychiatric Association in the Diagnostic and Statistical

1 Manual of Mental Disorders (DSM), fourth edition, or a subsequent
2 edition of that manual that the commissioner by rule adopts to take
3 the place of the fourth edition, except that the term does not
4 include:

5 (A) a mental disorder classified under that
6 manual as a "V-code" disorder;

7 (B) mental retardation;

8 (C) a learning disorder;

9 (D) a motor skill disorder; or

10 (E) a communication disorder.

11 (3) "Serious mental illness" means a mental disorder
12 that is one of the following psychiatric illnesses as defined by the
13 American Psychiatric Association in the Diagnostic and Statistical
14 Manual of Mental Disorders (DSM), fourth edition, or a subsequent
15 edition of that manual that the commissioner by rule adopts to take
16 the place of the fourth edition:

17 (A) bipolar disorders (hypomanic, manic,
18 depressive, and mixed);

19 (B) depression in childhood and adolescence;

20 (C) major depressive disorders (single episode
21 or recurrent);

22 (D) obsessive-compulsive disorders;

23 (E) paranoid and other psychotic disorders;

24 (F) pervasive developmental disorders;

25 (G) schizo-affective disorders (bipolar or
26 depressive); and

27 (H) schizophrenia.

1 (4) [~~(2)~~] "Small employer" has the meaning assigned by
2 Section 1501.002.

3 SECTION 3. Section 1355.002, Insurance Code, is amended to
4 read as follows:

5 Sec. 1355.002. APPLICABILITY OF SUBCHAPTER. This
6 subchapter applies only to a group health benefit plan that
7 provides benefits for medical or surgical expenses incurred as a
8 result of a health condition, accident, or sickness, including:

9 (1) a group insurance policy, group insurance
10 agreement, group hospital service contract, or group evidence of
11 coverage that is offered by:

12 (A) an insurance company;

13 (B) a group hospital service corporation
14 operating under Chapter 842;

15 (C) a fraternal benefit society operating under
16 Chapter 885;

17 (D) a stipulated premium company operating under
18 Chapter 884; or

19 (E) a health maintenance organization operating
20 under Chapter 843; and

21 (2) [~~to the extent permitted by the Employee~~
22 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~
23 ~~seq.)~~], a plan offered under:

24 [~~(A)~~] a multiple employer welfare arrangement
25 that holds a certificate of authority under Chapter 846 [~~as defined~~
26 ~~by Section 3 of that Act, or~~

27 [~~(B) another analogous benefit arrangement~~].

1 SECTION 4. Subsections (a) and (b), Section 1355.003,
2 Insurance Code, is amended to read as follows:

3 (a) This subchapter does not apply to coverage under:

4 (1) a blanket accident and health insurance policy, as
5 described by Chapter 1251;

6 (2) a short-term travel policy;

7 (3) an accident-only policy;

8 (4) a plan that provides coverage:

9 (A) only for benefits for a specified disease or
10 for another limited benefit, other than a plan that provides
11 benefits for mental health or similar services;

12 (B) only for accidental death or dismemberment;

13 (C) for wages or payments in lieu of wages for a
14 period during which an employee is absent from work because of
15 sickness or injury;

16 (D) as a supplement to a liability insurance
17 policy;

18 (E) only for dental or vision care; or

19 (F) only for indemnity for hospital confinement;

20 (5) a Medicare supplemental policy as defined by
21 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

22 (6) a workers' compensation insurance policy;

23 (7) medical payment insurance coverage provided under
24 an automobile insurance policy;

25 (8) a credit insurance policy;

26 (9) a long-term care insurance policy, including a
27 nursing home fixed indemnity policy, unless the commissioner

1 determines that the policy provides benefit coverage so
2 comprehensive that the policy is a group health benefit plan as
3 described by Section 1355.002 [~~limited or specified-disease policy~~
4 ~~that does not provide benefits for mental health care or similar~~
5 ~~services~~];

6 (10) [~~(5)~~] except as provided by Subsection (b), a
7 plan offered under Chapter 1551 or Chapter 1601; or

8 (11) [~~(6)~~] a plan offered in accordance with Section
9 1355.151 [~~or~~

10 [~~(7) a Medicare supplement benefit plan, as defined by~~
11 ~~Section 1652.002~~].

12 (b) For the purposes of a plan described by Subsection
13 (a)(10) [(a)(5)], "serious mental illness" has the meaning assigned
14 by Section 1355.001.

15 SECTION 5. Subchapter A, Chapter 1355, Insurance Code, is
16 amended by adding Sections 1355.0031 through 1355.0035 to read as
17 follows:

18 Sec. 1355.0031. COVERAGE EQUITY REQUIRED. (a) Except as
19 provided by Subsection (c), a group health benefit plan that
20 provides coverage for any mental disorder must provide coverage for
21 the diagnosis and medically necessary treatment of that mental
22 disorder under terms at least as favorable as the coverage provided
23 under the health benefit plan for the diagnosis and treatment of
24 medical and surgical conditions.

25 (b) A group health benefit plan may not establish separate
26 cost-sharing requirements that are only applicable to coverage for
27 mental disorders.

1 (c) A group health benefit plan that is a standard health
2 benefit plan under Chapter 1507, except for a plan issued to a small
3 employer, is required to provide coverage for a mental disorder
4 only if the mental disorder is a serious mental illness, and only to
5 the extent required by Sections 1355.004(b) and (c) and Sections
6 1507.003 and 1507.053.

7 Sec. 1355.0032. TREATMENT LIMITATIONS; FINANCIAL
8 REQUIREMENTS. (a) For purposes of this section:

9 (1) "Financial requirements" include requirements
10 relating to deductibles, copayments, coinsurance, out-of-pocket
11 expenses, and annual and lifetime limits.

12 (2) "Treatment limitations" include limitations on
13 the frequency of treatments, number of visits, days of coverage, or
14 other similar limits on the scope and duration of coverage.

15 (b) A group health benefit plan that provides coverage for
16 the diagnosis and medically necessary treatment of mental disorders
17 may not impose treatment limitations or financial requirements on
18 the provision of benefits under that coverage if identical
19 limitations or requirements are not imposed on coverage for the
20 diagnosis and treatment of medical and surgical conditions covered
21 by the plan.

22 (c) This section does not prohibit a group health benefit
23 plan issuer from negotiating separate reimbursement or provider
24 payment rates and service delivery systems for different benefits
25 that are consistent with the requirements under Subsection (b)
26 regarding treatment limitations and financial requirements.

27 (d) This section does not prohibit a group health benefit

1 plan issuer from managing the provision of benefits for treatment
2 of mental disorders as necessary to provide services for covered
3 benefits, including:

4 (1) use of any utilization review, authorization, or
5 other similar management practices;

6 (2) application of medical necessity and
7 appropriateness criteria applicable to behavioral health; and

8 (3) contracting with and using a network of providers.

9 (e) This section does not prohibit a group health benefit
10 plan from complying with the requirements of this subchapter in a
11 manner that takes into consideration similar treatment settings or
12 similar treatments.

13 Sec. 1355.0033. OUT-OF-NETWORK COVERAGE. (a) If a group
14 health benefit plan offers out-of-network coverage for medical and
15 surgical benefits under the plan, the group health benefit plan
16 must also offer out-of-network coverage for benefits for treatment
17 of mental disorders.

18 (b) If the group health benefit plan provides benefits for
19 medical and surgical conditions and treatment of mental disorders,
20 and provides those benefits on both an in-network and
21 out-of-network basis under the terms of the plan, the group health
22 benefit plan must ensure that the requirements of this subchapter
23 are applied to both in-network and out-of-network services by
24 comparing in-network medical and surgical benefits to in-network
25 benefits for treatment of mental disorders and out-of-network
26 medical and surgical benefits to out-of-network benefits for
27 treatment of mental disorders.

1 (c) This section may not be construed as requiring that a
2 group health benefit plan eliminate an out-of-network provider
3 option from the plan under the terms of the plan.

4 Sec. 1355.0034. SMALL EMPLOYER PLANS. An issuer of a group
5 health benefit plan to a small employer under Chapter 1501 must
6 offer coverage for mental disorders that are not classified as
7 serious mental illnesses that is equal to that provided under the
8 plan for other medical and surgical care, but is not required to
9 provide the coverage if the employer rejects the coverage.

10 Sec. 1355.0035. COST EXEMPTION. (a) If the issuer of a
11 group health benefit plan experiences increased actual total costs
12 of coverage, as a result of compliance with the coverage equity
13 requirements adopted under Sections 1355.0031-1355.0034, that
14 exceed two percent during the first year of operation of the plan,
15 that plan is exempt in the manner prescribed by this section from
16 application of those equity requirements for the following second
17 plan year if the group health benefit plan issuer complies with the
18 requirements of this section.

19 (b) If the issuer of a group health benefit plan experiences
20 increased actual total costs of coverage, as a result of compliance
21 with the coverage equity requirements adopted under Sections
22 1355.0031-1355.0034, that exceed one percent during a year of
23 operation after the first plan year, that plan is exempt in the
24 manner prescribed by this section from application of those equity
25 requirements for the following plan year if the group health
26 benefit plan issuer complies with the requirements of this section.

27 (c) A group health benefit plan issuer that seeks an

1 exemption under Subsection (a) or (b) must apply to the department
2 in the manner prescribed by the commissioner. A group health
3 benefit plan issuer is only eligible to seek a cost exemption under
4 this section after the group health benefit plan has complied with
5 the coverage equity requirements of this subchapter for at least
6 the first six months of the plan year in which application is made.

7 (d) To qualify for the cost exemption under Subsection (a)
8 or (b), a group health benefit plan issuer must submit the
9 application required under Subsection (c), accompanied by the
10 written certification of a qualified actuary who is a member in good
11 standing of the American Academy of Actuaries that the increase in
12 costs described by Subsection (a) or (b) is solely the result of
13 compliance with the coverage equity requirements of this
14 subchapter.

15 (e) The department shall review the actuarial assessment
16 submitted under Subsection (d). Based on the department review of
17 the assessment, the commissioner shall inform the issuer of the
18 group health benefit plan in writing as to whether or not the
19 assessment satisfactorily demonstrates that the cost exemption is
20 justified under Subsection (a) or (b). On receipt of a
21 determination from the commissioner that the cost exemption is
22 justified, the group health benefit plan is exempt from the
23 coverage equity requirements of this subchapter as provided by this
24 section.

25 (f) Notwithstanding Subsection (a) or (b), an employer may
26 elect to continue to apply the coverage equity requirements adopted
27 under this subchapter with respect to the group health benefit plan

1 regardless of any increase in total costs.

2 SECTION 6. Sections 1355.004, 1355.005, and 1355.007,
3 Insurance Code, are amended to read as follows:

4 Sec. 1355.004. REQUIRED COVERAGE FOR SERIOUS MENTAL
5 ILLNESS. (a) Except as provided by Subsections (b) and (c), a [A]
6 group health benefit plan[+]

7 [~~1~~] must provide coverage, based on medical
8 necessity, for the diagnosis and medically necessary treatment [not
9 less than the following treatments] of serious mental illness under
10 terms at least as favorable as the coverage provided under the
11 health benefit plan for the diagnosis and treatment of medical and
12 surgical conditions.

13 (b) A group health benefit plan issuer that issues a
14 standard health benefit plan under Chapter 1507, except for a plan
15 issued to a small employer:

16 (1) must provide coverage, based on medical necessity,
17 for not less than the following treatments of serious mental
18 illness in each calendar year:

19 (A) 45 days of inpatient treatment; and

20 (B) 60 visits for outpatient treatment,
21 including group and individual outpatient treatment;

22 (2) may not include a lifetime limitation on the
23 number of days of inpatient treatment or the number of visits for
24 outpatient treatment covered under the plan; and

25 (3) must include the same amount limitations,
26 deductibles, copayments, and coinsurance factors for serious
27 mental illness as the plan includes for physical illness.

1 (c) [~~(b)~~] A group health benefit plan issuer that issues a
2 standard health benefit plan under Chapter 1507:

3 (1) may not count an outpatient visit for medication
4 management against the number of outpatient visits required to be
5 covered under Subsection (b)(1)(B) [~~(a)(1)(B)~~]; and

6 (2) must provide coverage for an outpatient visit
7 described by Subsection (b)(1)(B) [~~(a)(1)(B)~~] under the same terms
8 as the coverage the issuer provides for an outpatient visit for the
9 treatment of physical illness.

10 Sec. 1355.005. MANAGED CARE PLAN AUTHORIZED. A group
11 health benefit plan issuer may provide or offer coverage required
12 by this subchapter [~~Section 1355.004~~] through a managed care plan.

13 Sec. 1355.007. SMALL EMPLOYER COVERAGE. An issuer of a
14 group health benefit plan to a small employer under Chapter 1501
15 must offer the coverage for serious mental illnesses described by
16 Section 1355.004(a) [~~1355.004~~] to the employer but is not required
17 to provide the coverage if the employer rejects the coverage.

18 SECTION 7. Subchapter A, Chapter 1355, Insurance Code, is
19 amended by adding Section 1355.008 to read as follows:

20 Sec. 1355.008. RULES. The commissioner shall adopt rules
21 in the manner prescribed by Subchapter A, Chapter 36, as necessary
22 to administer this subchapter.

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

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

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