

By: Coleman

H.B. No. 2969

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. AMENDMENTS TO SUBCHAPTER A, CHAPTER 1355,

INSURANCE CODE

SECTION 1.01. Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

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

Sec. 1355.001. DEFINITIONS. In this subchapter:

(1) "Mental disorder" ~~["Serious mental illness"]~~ means a disorder ~~[the following psychiatric illnesses]~~ as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition, or in a subsequent edition of that manual that the commissioner adopts to take the place of the fourth edition or any subsequent edition for the purposes of this subdivision, that results in an impairment of a person's functioning in the person's community, employment, family, school, or social group ~~[(DSM):~~

~~[(A) bipolar disorders (hypomanic, manic, depressive, and mixed),~~

~~[(B) depression in childhood and adolescence,~~

~~[(C) major depressive disorders (single episode~~

1 ~~or recurrent);~~

2 [~~(D) obsessive-compulsive disorders;~~

3 [~~(E) paranoid and other psychotic disorders;~~

4 [~~(F) schizo-affective disorders (bipolar or~~
5 ~~depressive); and~~

6 [~~(C) schizophrenia].~~

7 (2) [~~"Small employer" has the meaning assigned by~~
8 ~~Section 1501.002.~~

9 [~~(3)~~] "Autism spectrum disorder" means a
10 neurobiological disorder that includes autism, Asperger's
11 syndrome, or Pervasive Developmental Disorder--Not Otherwise
12 Specified.

13 [~~(4) "Neurobiological disorder" means an illness of~~
14 ~~the nervous system caused by genetic, metabolic, or other~~
15 ~~biological factors.]~~

16 Sec. 1355.002. APPLICABILITY OF SUBCHAPTER. (a) This
17 subchapter applies only to a [~~group~~] health benefit plan that
18 provides benefits for medical or surgical expenses incurred as a
19 result of a health condition, accident, or sickness, including an
20 individual, [~~+~~

21 [~~(1) a~~] group, blanket, or franchise insurance policy
22 or [~~7-group~~] insurance agreement, a group hospital service
23 contract, an individual or group evidence of coverage, or a similar
24 coverage document, that is offered by:

25 (1) [~~(A)~~] an insurance company;

26 (2) [~~(B)~~] a group hospital service corporation
27 operating under Chapter 842;

1 (3) [~~(C)~~] a fraternal benefit society operating under
2 Chapter 885;

3 (4) [~~(D)~~] a stipulated premium company operating
4 under Chapter 884; [~~or~~]

5 (5) [~~(E)~~] a health maintenance organization operating
6 under Chapter 843;

7 (6) a reciprocal exchange operating under Chapter 942;

8 (7) a Lloyd's plan operating under Chapter 941;

9 (8) an approved nonprofit health corporation that
10 holds a certificate of authority under Chapter 844; or [~~and~~]

11 (9) [~~(2) to the extent permitted by the Employee~~
12 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~
13 ~~seq.), a plan offered under:~~

14 [~~(A)~~] a multiple employer welfare arrangement
15 that holds a certificate of authority under Chapter 846 [~~as defined~~
16 ~~by Section 3 of that Act; or~~

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

18 (b) This subchapter applies to a small employer health
19 benefit plan written under Chapter 1501.

20 Sec. 1355.003. EXCEPTION. [~~(a)~~] This subchapter does not
21 apply to [~~coverage under~~]:

22 (1) a plan that provides coverage:

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

26 (B) only for accidental death or dismemberment;

27 (C) for wages or payments in lieu of wages for a

1 period during which an employee is absent from work because of
2 sickness or injury;

3 (D) as a supplement to a liability insurance
4 policy;

5 (E) only for dental or vision care;

6 (F) only for hospital expenses; or

7 (G) only for indemnity for hospital confinement;

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

10 (3) a workers' compensation insurance policy;

11 (4) medical payment insurance coverage provided under
12 an automobile insurance policy;

13 (5) a credit insurance policy; or

14 (6) a long-term care insurance policy, including a
15 nursing home fixed indemnity policy, unless the commissioner
16 determines that the policy provides benefit coverage so
17 comprehensive that the policy is a health benefit plan as described
18 by Section 1355.002 [a blanket accident and health insurance
19 policy, as described by Chapter 1251,

20 [(2) a short-term travel policy,

21 [(3) an accident-only policy,

22 [(4) a limited or specified-disease policy that does
23 not provide benefits for mental health care or similar services,

24 [(5) except as provided by Subsection (b), a plan
25 offered under Chapter 1551 or Chapter 1601,

26 [(6) a plan offered in accordance with Section
27 1355.151, or

1 ~~[(7) a Medicare supplement benefit plan, as defined by~~
2 ~~Section 1652.002.~~

3 ~~[(b) For the purposes of a plan described by Subsection~~
4 ~~(a)(5), "serious mental illness" has the meaning assigned by~~
5 ~~Section 1355.001].~~

6 Sec. 1355.004. REQUIRED COVERAGE ~~[FOR SERIOUS MENTAL~~
7 ~~ILLNESS].~~ ~~[(a)]~~ A group health benefit plan~~+~~

8 ~~[(1)]~~ must provide coverage for the diagnosis and
9 treatment of a mental disorder under the same terms and conditions
10 as coverage provided for the diagnosis and treatment of physical
11 illness~~[, based on medical necessity, for not less than the~~
12 ~~following treatments of serious mental illness in each calendar~~
13 ~~year:~~

14 ~~[(A) 45 days of inpatient treatment, and~~

15 ~~[(B) 60 visits for outpatient treatment,~~
16 ~~including group and individual outpatient treatment,~~

17 ~~[(2) may not include a lifetime limitation on the~~
18 ~~number of days of inpatient treatment or the number of visits for~~
19 ~~outpatient treatment covered under the plan, and~~

20 ~~[(3) must include the same amount limitations,~~
21 ~~deductibles, copayments, and coinsurance factors for serious~~
22 ~~mental illness as the plan includes for physical illness].~~

23 ~~[(b) A group health benefit plan issuer:~~

24 ~~[(1) may not count an outpatient visit for medication~~
25 ~~management against the number of outpatient visits required to be~~
26 ~~covered under Subsection (a)(1)(B), and~~

27 ~~[(2) must provide coverage for an outpatient visit~~

1 ~~described by Subsection (a)(1)(B) under the same terms as the~~
2 ~~coverage the issuer provides for an outpatient visit for the~~
3 ~~treatment of physical illness.]~~

4 Sec. 1355.005. COVERAGE OF INPATIENT STAYS AND OUTPATIENT
5 VISITS. A health benefit plan must cover inpatient stays and
6 outpatient visits under this subchapter under the same terms and
7 conditions as the plan covers inpatient stays and outpatient visits
8 for treatment of a physical illness. [~~MANAGED CARE PLAN~~
9 ~~AUTHORIZED. A group health benefit plan issuer may provide or~~
10 ~~offer coverage required by Section 1355.004 through a managed care~~
11 ~~plan.]~~

12 Sec. 1355.006. AMOUNT LIMITS; DEDUCTIBLES; COPAYMENTS;
13 COINSURANCE. Coverage provided under this subchapter must be
14 subject to the same amount limits, deductibles, copayments, and
15 coinsurance factors as coverage for physical illness. [~~COVERAGE~~
16 ~~FOR CERTAIN CONDITIONS RELATED TO CONTROLLED SUBSTANCE OR MARIHUANA~~
17 ~~NOT REQUIRED. (a) In this section, "controlled substance" and~~
18 ~~"marihuana" have the meanings assigned by Section 481.002, Health~~
19 ~~and Safety Code.~~

20 [~~(b) This subchapter does not require a group health benefit~~
21 ~~plan to provide coverage for the treatment of:~~

22 [~~(1) addiction to a controlled substance or marihuana~~
23 ~~that is used in violation of law; or~~

24 [~~(2) mental illness that results from the use of a~~
25 ~~controlled substance or marihuana in violation of law.]~~

26 Sec. 1355.007. RULES. The commissioner shall adopt rules
27 as necessary to implement this subchapter. [~~SMALL EMPLOYER~~

1 ~~COVERAGE. An issuer of a group health benefit plan to a small~~
2 ~~employer must offer the coverage described by Section 1355.004 to~~
3 ~~the employer but is not required to provide the coverage if the~~
4 ~~employer rejects the coverage.]~~

5 ARTICLE 2. CONFORMING AMENDMENTS

6 SECTION 2.01. Section 1355.151, Insurance Code, is amended
7 to read as follows:

8 Sec. 1355.151. PROHIBITION ON EXCLUSION OR LIMITATION OF
9 CERTAIN COVERAGES. (a) In this section, "mental disorder"
10 [~~"serious mental illness"~~] has the meaning assigned by Section
11 1355.001.

12 (b) A political subdivision that provides group health
13 insurance coverage, health maintenance organization coverage, or
14 self-insured health care coverage to the political subdivision's
15 officers or employees may not contract for or provide coverage that
16 is less extensive for a mental disorder [~~serious mental illness~~]
17 than the coverage provided for any other physical illness.

18 SECTION 2.02. Section 1507.003(b), Insurance Code, is
19 amended to read as follows:

20 (b) For purposes of this subchapter, "state-mandated health
21 benefits" does not include benefits that are mandated by federal
22 law or standard provisions or rights required under this code or
23 other laws of this state to be provided in an individual, blanket,
24 or group policy for accident and health insurance that are
25 unrelated to a specific health illness, injury, or condition of an
26 insured, including provisions related to:

27 (1) continuation of coverage under:

- 1 (A) Subchapters F and G, Chapter 1251;
- 2 (B) Section 1201.059; and
- 3 (C) Subchapter B, Chapter 1253;
- 4 (2) termination of coverage under Sections 1202.051
- 5 and 1501.108;
- 6 (3) preexisting conditions under Subchapter D,
- 7 Chapter 1201, and Sections 1501.102-1501.105;
- 8 (4) coverage of children, including newborn or adopted
- 9 children, under:
- 10 (A) Subchapter D, Chapter 1251;
- 11 (B) Sections 1201.053, 1201.061,
- 12 1201.063-1201.065, and Subchapter A, Chapter 1367;
- 13 (C) Chapter 1504;
- 14 (D) Chapter 1503;
- 15 (E) Section 1501.157;
- 16 (F) Section 1501.158; and
- 17 (G) Sections 1501.607-1501.609;
- 18 (5) services of practitioners under:
- 19 (A) Subchapters A, B, and C, Chapter 1451; or
- 20 (B) Section 1301.052;
- 21 (6) supplies and services associated with the
- 22 treatment of diabetes under Subchapter B, Chapter 1358;
- 23 (7) coverage for a mental disorder [~~serious mental~~
- 24 ~~illness~~] under Subchapter A, Chapter 1355;
- 25 (8) coverage for childhood immunizations and hearing
- 26 screening as required by Subchapters B and C, Chapter 1367, other
- 27 than Section 1367.053(c) and Chapter 1353;

1 (9) coverage for reconstructive surgery for certain
2 craniofacial abnormalities of children as required by Subchapter D,
3 Chapter 1367;

4 (10) coverage for the dietary treatment of
5 phenylketonuria as required by Chapter 1359;

6 (11) coverage for referral to a non-network physician
7 or provider when medically necessary covered services are not
8 available through network physicians or providers, as required by
9 Section 1271.055; and

10 (12) coverage for cancer screenings under:

11 (A) Chapter 1356;

12 (B) Chapter 1362;

13 (C) Chapter 1363; and

14 (D) Chapter 1370.

15 SECTION 2.03. Section 1507.053(b), Insurance Code, is
16 amended to read as follows:

17 (b) For purposes of this subchapter, "state-mandated health
18 benefits" does not include coverage that is mandated by federal law
19 or standard provisions or rights required under this code or other
20 laws of this state to be provided in an evidence of coverage that
21 are unrelated to a specific health illness, injury, or condition of
22 an enrollee, including provisions related to:

23 (1) continuation of coverage under Subchapter G,
24 Chapter 1251;

25 (2) termination of coverage under Sections 1202.051
26 and 1501.108;

27 (3) preexisting conditions under Subchapter D,

1 Chapter 1201, and Sections 1501.102-1501.105;

2 (4) coverage of children, including newborn or adopted
3 children, under:

4 (A) Chapter 1504;

5 (B) Chapter 1503;

6 (C) Section 1501.157;

7 (D) Section 1501.158; and

8 (E) Sections 1501.607-1501.609;

9 (5) services of providers under Section 843.304;

10 (6) coverage for a mental disorder [~~serious mental~~
11 ~~health illness~~] under Subchapter A, Chapter 1355; and

12 (7) coverage for cancer screenings under:

13 (A) Chapter 1356;

14 (B) Chapter 1362;

15 (C) Chapter 1363; and

16 (D) Chapter 1370.

17 SECTION 2.04. Section 1551.003, Insurance Code, is amended
18 by adding Subdivision (10-a) to read as follows:

19 (10-a) "Mental disorder" has the meaning assigned by
20 Section 1355.001.

21 SECTION 2.05. Section 1551.205, Insurance Code, is amended
22 to read as follows:

23 Sec. 1551.205. LIMITATIONS. The board of trustees may not
24 contract for or provide a coverage plan that:

25 (1) excludes or limits coverage or services for
26 acquired immune deficiency syndrome, as defined by the Centers for
27 Disease Control and Prevention of the United States Public Health

1 Service, or human immunodeficiency virus infection;

2 (2) provides coverage for a mental disorder [~~serious~~
3 ~~mental illness~~] that is less extensive than the coverage provided
4 for any physical illness; or

5 (3) may provide coverage for prescription drugs to
6 assist in stopping smoking at a lower benefit level than is provided
7 for other prescription drugs.

8 SECTION 2.06. Section 1601.109, Insurance Code, is amended
9 to read as follows:

10 Sec. 1601.109. COVERAGE FOR AIDS, HIV, OR [~~SERIOUS~~] MENTAL
11 DISORDER [~~ILLNESS~~]. (a) In this section, "mental disorder"
12 [~~"serious mental illness"~~] has the meaning assigned by Section
13 1355.001.

14 (b) A system may not contract for or provide for group
15 insurance or HMO coverage or provide self-insured coverage, that:

16 (1) excludes or limits coverage or services for
17 acquired immune deficiency syndrome, as defined by the Centers for
18 Disease Control and Prevention of the United States Public Health
19 Service, or human immunodeficiency virus infection; or

20 (2) provides coverage for a mental disorder [~~serious~~
21 ~~mental illness~~] that is less extensive than the coverage provided
22 for any other physical illness.

23 SECTION 2.07. Section 1551.003(12), Insurance Code, is
24 repealed.

25 ARTICLE 3. TRANSITION; EFFECTIVE DATE

26 SECTION 3.01. The change in law made by this Act applies
27 only to a health benefit plan delivered, issued for delivery, or

1 renewed on or after January 1, 2010. A health benefit plan
2 delivered, issued for delivery, or renewed before January 1, 2010,
3 is governed by the law as it existed immediately before the
4 effective date of this Act, and that law is continued in effect for
5 that purpose.

6 SECTION 3.02. This Act takes effect September 1, 2009.