

By: Eiland

H.B. No. 4095

Substitute the following for H.B. No. 4095:

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C.S.H.B. No. 4095

A BILL TO BE ENTITLED

AN ACT

relating to the recovery from third parties by health benefit plan
issuers.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended
by adding Chapter 1220 to read as follows:

CHAPTER 1220. HEALTH BENEFIT PLAN ISSUER'S RECOVERY FROM THIRD
PARTIES

Sec. 1220.001. DEFINITION. In this chapter, "health
benefit plan" means a plan that provides benefits for medical or
surgical expenses incurred as a result of a health condition,
accident, or sickness, including an individual, group, blanket, or
franchise insurance policy or insurance agreement, a group hospital
service contract, or an individual or group evidence of coverage or
similar coverage document. The term includes, to the extent
allowed by other law, a plan described by 29 U.S.C. Section 1003(b).

Sec. 1220.002. RECOVERY FROM THIRD PARTIES. (a) A health
benefit plan that provides that the plan issuer has a right of
recovery from a third party for injury suffered by a covered
individual, whether by subrogation, reassignment, or
reimbursement:

(1) must provide that the right of recovery is
subordinate to the covered individual's right to be fully
compensated for damages incurred; and

1 (2) must obligate the plan issuer to share in the legal
2 expenses incurred by the covered individual in obtaining recovery
3 from a third party to the same extent that the issuer shares in any
4 recovery from the third party.

5 (b) The health benefit plan issuer may not pursue a right of
6 subrogation against a covered individual's first party coverage.

7 SECTION 2. The change in law made by this Act applies only
8 to a health benefit plan that is delivered, issued for delivery, or
9 renewed on or after January 1, 2010. A health benefit plan that is
10 delivered, issued for delivery, or renewed before January 1, 2010,
11 is covered by the law in effect at the time the health benefit plan
12 was delivered, issued for delivery, or renewed, and that law is
13 continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2009.