

By: Shapleigh

S.B. No. 350

A BILL TO BE ENTITLED

AN ACT

relating to the application for and continuation of certain health benefit plan coverage; providing a civil penalty.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapters 1217 and 1218 to read as follows:

CHAPTER 1217. APPLICATION FOR HEALTH BENEFIT PLAN COVERAGE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1217.001. DEFINITION OF HEALTH BENEFIT PLAN. (a) 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 that is offered by:

(1) an insurance company;

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

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

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

(5) an exchange operating under Chapter 942;

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

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

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

7 (b) The term includes:

8 (1) a small employer health benefit plan subject to
9 Chapter 1501;

10 (2) a standard health benefit plan provided under
11 Chapter 1507;

12 (3) a basic coverage plan under Chapter 1551;

13 (4) a basic plan under Chapter 1575;

14 (5) a primary care coverage plan under Chapter 1579;

15 and

16 (6) basic coverage under Chapter 1601.

17 [Sections 1217.002-1217.050 reserved for expansion]

18 SUBCHAPTER B. APPLICATION FOR COVERAGE

19 Sec. 1217.051. APPLICATION ASSISTANCE; CIVIL PENALTY. (a)
20 A life, accident, and health agent who assists an applicant in
21 submitting an application to a health benefit plan issuer:

22 (1) has a duty to assist the applicant in providing
23 answers to health questions accurately and completely; and

24 (2) shall attest on the written application that:

25 (A) to the best of the agent's knowledge, the
26 information on the application is complete and accurate;

27 (B) the agent explained to the applicant, in

1 easy-to-understand language, the risk to the applicant of providing
2 inaccurate information; and

3 (C) the applicant understood the explanation
4 provided under Subdivision (2).

5 (b) If, in an attestation required by Subsection (a), an
6 agent wilfully states as true any material fact the agent knows to
7 be false, the agent, in addition to any other penalty or remedy
8 available by law, is liable for a civil penalty in an amount not to
9 exceed \$10,000.

10 (c) The attorney general or a county or district attorney
11 may bring an action to recover a civil penalty under Subsection (b).
12 The penalty shall be deposited in the general revenue fund, except
13 that for a penalty recovered in a suit first instituted by a local
14 government or governments under this subsection, 50 percent of the
15 recovery shall be deposited in the general revenue fund and the
16 other 50 percent shall be equally distributed to the local
17 government or governments that instituted the suit.

18 (d) An application for health benefit plan coverage shall
19 include a statement advising affiants of the civil penalty
20 authorized under this section.

21 CHAPTER 1218. CANCELLATION OR RESCISSION OF HEALTH BENEFIT PLAN

22 COVERAGE

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 1218.001. DEFINITION. In this chapter, "individual
25 health benefit plan" means:

26 (1) an individual accident and health insurance policy
27 to which Chapter 1201 applies; or

1 (2) individual health maintenance organization
2 coverage.

3 [Sections 1218.002-1218.050 reserved for expansion]

4 SUBCHAPTER B. CANCELLATION OR RESCISSION

5 Sec. 1218.051. INDIVIDUAL HEALTH BENEFIT PLAN:
6 CONTINUATION OF COVERAGE. (a) An individual health benefit plan
7 issuer that intends, because of information contained in the
8 application for the policy or contract or otherwise communicated to
9 the issuer concerning a particular individual, to cancel or rescind
10 an individual health benefit plan policy or contract:

11 (1) shall offer to each other individual covered under
12 the policy or contract the opportunity to obtain a new individual
13 health benefit plan policy or contract with benefits equal to those
14 of the canceled or rescinded policy or contract; and

15 (2) may permit an individual otherwise entitled to an
16 offer of coverage under Subdivision (1) to remain covered under the
17 policy or contract with a revised premium rate to reflect any
18 reduction in the number of individuals covered by the policy or
19 contract.

20 (b) An individual health benefit plan issuer is not required
21 to continue existing coverage of or issue new coverage to an
22 individual if the cancellation or rescission is based on
23 information about that individual.

24 (c) If a new individual health benefit plan policy or
25 contract is issued under this section, the plan issuer may revise
26 the premium rate only to reflect the number of persons covered by
27 the new policy or contract.

1 Sec. 1218.052. PREEXISTING CONDITION EXCLUSION; WAITING OR
2 AFFILIATION PERIOD. (a) An individual health plan issuer required
3 to offer coverage under this chapter may not decline to issue the
4 coverage or impose any preexisting condition exclusion on an
5 individual who retains existing coverage or obtains new coverage
6 under this chapter.

7 (b) Notwithstanding Subsection (a), if an individual was
8 subject to a preexisting condition provision or a waiting or
9 affiliation period under the canceled or rescinded health benefit
10 plan policy or contract, the plan issuer may apply the same
11 preexisting condition provision or waiting or affiliation period in
12 a new policy or contract issued under this chapter. The time period
13 in the new policy or contract for the preexisting condition
14 provision period or waiting or affiliation period may not be longer
15 than the applicable period in the canceled or rescinded policy or
16 contract. The plan issuer shall credit any time the individual was
17 covered under the canceled or rescinded policy or contract to the
18 preexisting condition provision period or waiting or affiliation
19 period in the new policy or contract.

20 Sec. 1218.053. NOTICE. An individual health benefit plan
21 issuer that cancels or rescinds an individual health benefit plan
22 policy or contract shall notify in writing each individual covered
23 under the policy or contract of the offer of coverage required to be
24 made under this chapter.

25 Sec. 1218.054. MINIMUM TIME TO ACCEPT OFFER. An individual
26 health benefit plan issuer required to offer continuation of
27 coverage under this chapter must allow an individual entitled to

1 the coverage at least 60 days to accept the offered coverage.

2 Sec. 1218.055. EFFECTIVE DATE OF COVERAGE. A new health
3 benefit plan policy or contract issued under this chapter is
4 effective as of the effective date of the canceled or rescinded
5 policy or contract, and there may not be a lapse in coverage.

6 SECTION 2. (a) The change in law made by Chapter 1217,
7 Insurance Code, as added by this Act, applies only to an application
8 for health benefit plan coverage submitted to a health benefit plan
9 issuer on or after January 1, 2010. An application submitted before
10 that date is governed by the law in effect immediately before the
11 effective date of this Act, and that law is continued in effect for
12 that purpose.

13 (b) The change in law made by Chapter 1218, Insurance Code,
14 as added by this Act, applies only to a cancellation or rescission
15 of an individual health benefit plan policy or contract or health
16 benefit plan coverage on or after the effective date of this Act. A
17 cancellation or rescission of a policy, contract, or coverage
18 before the effective date of this Act is governed by the law in
19 effect immediately before that date, and that law is continued in
20 effect for that purpose.

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