

By: Watson, et al.

S.B. No. 815

A BILL TO BE ENTITLED

AN ACT

relating to consumer labeling requirements for and the provision of certain information concerning health benefit plans; providing penalties.

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

SECTION 1. Chapter 541, Insurance Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REQUIRED LABELING FOR HEALTH BENEFIT PLANS

Sec. 541.501. DEFINITIONS. In this subchapter:

(1) "Enrollee" means an individual who is eligible to receive health care services under a health benefit plan.

(2) "Insurance facts label" means a notice that complies with the requirements of this subchapter.

(3) "Covered days for inpatient mental health" means the number of days covered for inpatient treatment related to mental health, detoxification, or treatment for addiction.

Sec. 541.502. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to any health benefit 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 small employer health benefit plan under Chapter 1501, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

1 (1) an insurance company;

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

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

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

8 (5) a health maintenance organization operating under
9 Chapter 843;

10 (6) an approved nonprofit health corporation that
11 holds a certificate of authority under Chapter 844; or

12 (7) an entity not authorized under this code or
13 another insurance law of this state that contracts directly for
14 health care services on a risk-sharing basis, including a
15 capitation basis.

16 (b) This subchapter does not apply to:

17 (1) the child health plan program under Chapter 62,
18 Health and Safety Code, or the health benefits plan for children
19 under Chapter 63, Health and Safety Code;

20 (2) a Medicaid managed care program operated under
21 Chapter 533, Government Code, or a Medicaid program operated under
22 Chapter 32, Human Resources Code;

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

25 (4) a large employer health benefit plan as defined
26 under Section 1501.002.

27 Sec. 541.503. INSURANCE FACTS LABEL REQUIRED; NOTICE OF

1 LABEL REQUIRED. (a) The following documents must contain an
2 insurance facts label:

- 3 (1) a written plan description;
- 4 (2) an outline of coverage;
- 5 (3) a disclosure statement;
- 6 (4) a rate increase notice;
- 7 (5) a renewal notice; or
- 8 (6) a notice for product or plan modifications.

9 (b) An insurance facts label must be provided to an
10 individual on the individual's oral or written request.

11 Sec. 541.504. GENERAL FORMAT OF INSURANCE FACTS LABEL.

12 (a) An insurance facts label must include a box outline that
13 contains only white background and black text.

14 (b) An insurance facts label must:

- 15 (1) be conspicuous and not less than three inches in
16 height and two inches in width;
- 17 (2) be enclosed by a one-half point box rule within
18 three points of text measure; and
- 19 (3) separate all lines of text by two points, leading
20 above and below.

21 (c) The phrase "Insurance Facts" must:

- 22 (1) appear in a widely used sans serif font that is no
23 smaller than 13 point; and
- 24 (2) be located inside and at the top of the box to fit
25 the width of the label flush left and right.

26 (d) The health benefit plan name and the name of the company
27 must:

1 (1) appear in a widely used sans serif font that is no
2 smaller than 10 point; and

3 (2) be located immediately below the phrase "Insurance
4 Facts" and separated from the phrase "Insurance Facts" by a
5 seven-point rule.

6 (e) Any disclaimer or other information not otherwise
7 required to appear at a specific location on the label by this
8 subchapter must appear in a widely used sans serif font that is no
9 smaller than six point and located at the bottom of the label box as
10 the commissioner permits by rule.

11 Sec. 541.505. REQUIRED HEADINGS; FORMAT. (a) An insurance
12 facts label must contain the following headings:

13 (1) "Monthly Premium (Avg.)";

14 (2) "Percent of Expense Paid by Insurance (est.)"; and

15 (3) "Benefit Levels."

16 (b) The headings described by this section must be flush
17 left in the label box and appear in a widely used sans serif font
18 that is no smaller than eight point.

19 (c) "Monthly Premium (Avg.)" must be the first heading and
20 must be:

21 (1) located immediately below the health benefit plan
22 and health benefit plan issuer name; and

23 (2) separated from all other headings by a three-point
24 rule.

25 (d) A numeric value that corresponds to a heading must
26 appear flush right in a widely used sans serif font that is no
27 smaller than eight point.

1 (e) Each heading must be separated from another heading and
2 any applicable subheadings by a one-quarter-point rule.

3 (f) "Benefit Levels" must be the last heading, when headings
4 are listed top to bottom, and must appear immediately before the
5 required subheadings. There is no value for the "Benefit Levels"
6 heading.

7 Sec. 541.506. REQUIRED HEADINGS; DEFINITIONS. For the
8 purposes of Section 541.505, the following terms have the following
9 meanings:

10 (1) "Monthly Premium (Avg.)" means the average dollar
11 amount an enrollee pays each month for coverage under a health
12 benefit plan.

13 (2) "Percent of Expense Paid by Insurance (est.)"
14 means the estimate of the average percentage share of enrollees'
15 costs that a health benefit plan pays versus out-of-pocket charges.

16 Sec. 541.507. REQUIRED SUBHEADINGS; FORMAT.
17 (a) Subheadings under the "Benefit Levels" heading must disclose
18 the dollar value provided by the underlying certificate, policy, or
19 contract, and must be as follows:

20 (1) "Annual Deductible";

21 (2) "Out-of-Pocket Maximum";

22 (3) "Office Visit Copayment" listed separately for
23 primary care providers and specialists;

24 (4) "Prescription Copayment (Generic/Brand)";

25 (5) "Prescription Deductible";

26 (6) "Lifetime Maximum Coverage";

27 (7) "Maternity Coverage Included";

1 (8) "Emergency Room Visit Copayment";

2 (9) "Covered Days for Inpatient Mental Health";

3 (10) "Outpatient Surgery Copayment"; and

4 (11) "Inpatient Cost Sharing."

5 (b) Each subheading required by this section must be
6 indented six points from the left and appear in a widely used sans
7 serif font that is no smaller than eight point.

8 (c) A numeric value that corresponds to a subheading must
9 appear flush right in a widely used sans serif font that is no
10 smaller than eight point.

11 (d) Each subheading must be separated from another
12 subheading or heading by a one-quarter-point rule.

13 Sec. 541.508. RULES. (a) The commissioner may:

14 (1) require differing titles, headings, and
15 subheadings as may otherwise be required by this subchapter as
16 necessary to prevent confusion between insurance and noninsurance
17 products;

18 (2) adopt rules to resolve legibility and format
19 issues; and

20 (3) adopt any other rules as necessary to implement
21 and administer this subchapter.

22 (b) The commissioner shall adopt rules regulating:

23 (1) the use of insurance and noninsurance terms in the
24 insurance facts label to prevent confusion in the marketplace
25 between insurance and noninsurance products;

26 (2) the manner in which a health benefit plan may use
27 space available in the label box after disclosure of the consumer

1 information required by this subchapter;

2 (3) allowable disclaimers that may appear in a
3 separate section at the bottom of an insurance facts label box below
4 all headings and subheadings on the label;

5 (4) the format for a label containing information
6 about multiple health benefit plans for a document that presents or
7 promotes multiple health benefit plans; and

8 (5) the composition and computation of the estimates
9 required in the insurance facts label.

10 Sec. 541.509. REMEDIES AND ENFORCEMENT. A violation of
11 this subchapter is an unfair and deceptive act or practice in the
12 business of insurance under this chapter.

13 SECTION 2. (a) Section 32.101, Insurance Code, is amended
14 to read as follows:

15 Sec. 32.101. APPLICABILITY OF SUBCHAPTER. (a) This
16 subchapter applies to insurers who comprise the top 25 insurance
17 groups in the national market and who issue residential property
18 insurance or personal automobile insurance policies in this state,
19 including a Lloyd's plan, a reciprocal or interinsurance exchange,
20 a county mutual insurance company, a farm mutual insurance company,
21 the Texas Windstorm Insurance Association, the FAIR Plan
22 Association, and the Texas Automobile Insurance Plan Association.

23 (b) This subchapter applies to an issuer of a health benefit
24 plan described by Section 544.301, as added by Chapter 748 (H.B.
25 2810), Acts of the 79th Legislature, Regular Session, 2005.

26 (b) This section takes effect only if the Act of the 81st
27 Legislature, Regular Session, 2009, relating to nonsubstantive

additions to and corrections in enacted codes does not become law.

SECTION 3. (a) Section 32.101, Insurance Code, is amended to read as follows:

Sec. 32.101. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to insurers who comprise the top 25 insurance groups in the national market and who issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

(b) This subchapter applies to an issuer of a health benefit plan described by Section 544.501.

(b) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

SECTION 4. Subsection (a), Section 32.102, Insurance Code, is amended to read as follows:

(a) The department, in conjunction with the office of public insurance counsel, shall establish and maintain a single Internet website that provides information to enable consumers to make informed decisions relating to the purchase of health insurance, residential property insurance, and personal automobile insurance. The website must include:

(1) a description of each type of residential property insurance policy and personal automobile insurance policy issued in this state, including a comparison of the coverage, exclusions, and

1 restrictions of each policy that allows a side-by-side comparison
2 of the features of the policy forms;

3 (2) a listing of each insurer writing residential
4 property insurance or personal automobile insurance in this state,
5 indexed by each county or zip code in which the insurer is actively
6 writing that insurance, and a profile of the insurer that includes:

7 (A) contact information for the insurer,
8 including the insurer's full name, address, and telephone number
9 and the insurer's fax number and e-mail address, if available;

10 (B) information on rates charged by the insurer,
11 including:

12 (i) sample rates for different policyholder
13 profiles in each county or zip code; and

14 (ii) the percentage by which the sample
15 rate has fallen or risen due to filings in the previous 12, 24, and
16 36 months;

17 (C) a list of policy forms, exclusions,
18 endorsements, and discounts offered by the insurer;

19 (D) an indication of whether the insurer uses
20 credit scoring in underwriting, rating, or tiering, and a link to
21 the insurer's credit model or a link explaining how to request the
22 insurer's credit model;

23 (E) the insurer's financial rating determined by
24 A. M. Best or similar rating organization and an explanation of the
25 meaning and importance of the rating;

26 (F) a complaint ratio or similar complaint rating
27 system for the insurer for each of the previous three years and an

1 explanation of the meaning of the rating system; and

2 (G) information, other than information made
3 confidential by law, on the insurer's regulatory and administrative
4 experience with the department, the office of public insurance
5 counsel, and insurance regulatory authorities in other states;
6 ~~[and]~~

7 (3) if feasible, as determined by the commissioner and
8 the public insurance counsel:

9 (A) a side-by-side comparison of credit scoring
10 models, including factors, key variables, and weights, of
11 residential property insurers in this state; and

12 (B) a side-by-side comparison of credit scoring
13 models, including factors, key variables, and weights, of private
14 passenger automobile insurers in this state; and

15 (4) in the manner prescribed by the commissioner by
16 rule, contact information for individual health benefit plans as
17 necessary for consumers to obtain additional rate information
18 regarding a plan and a comparison of information about health
19 benefit plans, including information regarding a plan's:

20 (A) annual deductibles;

21 (B) out-of-pocket maximums;

22 (C) office visit copayments, listed separately
23 for primary care providers and specialists;

24 (D) prescription copayments, listed by generic
25 and brand name medications;

26 (E) prescription deductibles;

27 (F) lifetime maximum coverage;

- 1 (G) maternity coverage included;
- 2 (H) emergency room visit copayments;
- 3 (I) covered days for inpatient mental health;
- 4 (J) outpatient surgery copayments; and
- 5 (K) inpatient cost sharing.

6 SECTION 5. As soon as practicable, but not later than
7 October 31, 2009, the commissioner of insurance shall prepare a
8 sample of an insurance facts label that complies with Subchapter K,
9 Chapter 541, Insurance Code, as added by this Act, and create an
10 Internet web page that explains the insurance facts label to
11 consumers.

12 SECTION 6. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.