By: Watson S.B. No. 815

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COMMITTEE SUBSTITUTE FOR S.B. No. 815 By: Lucio

A BILL TO BE ENTITLED
AN ACT

relating to consumer labeling requirements for certain 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) 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) a health maintenance organization operating under Chapter 843;

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

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

(b) This subchapter does not apply to:

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

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

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

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

Sec. 541.503. INSURANCE FACTS LABEL REQUIRED; NOTICE OF LABEL REQUIRED. (a) The following documents must contain an insurance facts label:

(1) a written plan description;

(2) an outline of coverage;

(3) a disclosure statement;

(4) a rate increase notice;

(5) a renewal notice; or

(6) a notice for product or plan modifications.

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

Sec. 541.504. GENERAL FORMAT OF INSURANCE FACTS LABEL. (a) An insurance facts label must include a box outline that contains only white background and black text.

(b) An insurance facts label must:

(1) be conspicuous and not less than three inches in height and two inches in width;

(2) be enclosed by a one-half point box rule within three points of text measure; and

(3) separate all lines of text by two points, leading above and below.

(c) The phrase "Insurance Facts" must:

(1) appear in a widely used sans serif font that is no smaller than 13 point; and

(2) be located inside and at the top of the box to fit the width of the label flush left and right.

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

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

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

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

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

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

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

(3) "Benefit Levels."

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

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

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

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

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

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

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

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

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

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

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

(1) "Annual Deductible";

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

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

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

(5) "Prescription Deductible";

(6) "Lifetime Maximum Coverage";

(7) "Maternity Coverage Included";

(8) "Emergency Room Visit Copayment";

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

(10) "Outpatient Surgery Copayment"; and

(11) "Inpatient Cost Sharing."

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

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

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

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

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

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

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

(b) The commissioner shall adopt rules regulating:

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

(2) the manner in which a health benefit plan may use space available in the label box after disclosure of the consumer information required by this subchapter;

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

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

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

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

SECTION 2. As soon as practicable, but not later than October 31, 2009, the commissioner of insurance shall prepare a sample of an insurance facts label that complies with Subchapter K, Chapter 541, Insurance Code, as added by this Act, and create an Internet web page that explains the insurance facts label to consumers.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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