

By: West

S.B. No. 1733

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage of testing for prostate cancer for certain males.

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

SECTION 1. Subchapter D, Chapter 85, Health and Safety Code, is amended by adding Section 85.090 to read as follows:

Sec. 85.090. OPT-OUT PROSTATE CANCER TESTING IN CERTAIN ROUTINE MEDICAL SCREENINGS. (a) A health care provider that takes a sample of the blood of a male patient at least 40 years of age as part of a routine medical screening shall submit the sample for a prostate-specific antigen test, regardless of whether a prostate-specific antigen test is part of a primary diagnosis, unless the patient opts out of the prostate-specific antigen test.

(b) Before taking a sample of the blood of a male patient at least 40 years of age, a health care provider must verbally inform the patient that a prostate-specific antigen test will be performed unless the patient opts out of the prostate-specific antigen test.

(c) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement this section.

SECTION 2. Section 32.024, Human Resources Code, is amended by adding Subsection (ff) to read as follows:

(ff) The executive commissioner of the Health and Human Services Commission shall adopt rules to require the department to provide coverage for a medically accepted prostate-specific

1 antigen test used for the detection of prostate cancer for each male
2 enrolled in the plan who is at least 40 years of age.

3 SECTION 3. Section 1362.001, Insurance Code, is amended to
4 read as follows:

5 Sec. 1362.001. APPLICABILITY OF CHAPTER. (a) This
6 chapter applies only to a health benefit plan, including a large or
7 small employer health benefit plan written under Chapter 1501,
8 that[÷

9 [~~(1)~~] provides benefits for medical or surgical
10 expenses incurred as a result of a health condition, accident, or
11 sickness, including[÷

12 [~~(A)~~] an individual, group, blanket, or
13 franchise insurance policy or insurance agreement, a group hospital
14 service contract, or an individual or group evidence of coverage
15 that is offered by:

16 (1) [~~(i)~~] an insurance company;

17 (2) [~~(ii)~~] a group hospital service corporation
18 operating under Chapter 842;

19 (3) [~~(iii)~~] a fraternal benefit society operating
20 under Chapter 885;

21 (4) [~~(iv)~~] a stipulated premium company operating
22 under Chapter 884; [~~or~~]

23 (5) [~~(v)~~] a health maintenance organization operating
24 under Chapter 843;

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

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

27 (8) [and

~~[(B) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a health benefit plan that is offered by:~~

~~[(i)] a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or~~

~~(9) [as defined by Section 3 of that Act; or~~

~~[(ii) another analogous benefit arrangement;~~

~~[(2) is offered by:~~

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

~~[(B) 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; or~~

~~[(3) provides health and accident coverage through a risk pool created under Chapter 172, Local Government Code, notwithstanding Section 172.014, Local Government Code, or any other law].~~

(b) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

(1) a basic coverage plan under Chapter 1551;

(2) a primary care coverage plan under Chapter 1579;

and

(3) basic coverage under Chapter 1601.

SECTION 4. Section 1362.002, Insurance Code, is amended to

1 read as follows:

2 Sec. 1362.002. EXCEPTION. This chapter does not apply to:

3 (1) a health benefit plan that provides coverage:

4 (A) only for a specified disease or for another
5 limited benefit;

6 (B) only for accidental death or dismemberment;

7 (C) for wages or payments in lieu of wages for a
8 period during which an employee is absent from work because of
9 sickness or injury;

10 (D) as a supplement to a liability insurance
11 policy; or

12 (E) only for indemnity for hospital confinement;

13 (2) ~~[a small employer health benefit plan written~~
14 ~~under Chapter 1501,~~

15 ~~[(3)]~~ a Medicare supplemental policy as defined by
16 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

17 (3) ~~[(4)]~~ a workers' compensation insurance policy;

18 (4) ~~[(5)]~~ medical payment insurance coverage provided
19 under a motor vehicle insurance policy; or

20 (5) ~~[(6)]~~ a long-term care insurance policy,
21 including a nursing home fixed indemnity policy, unless the
22 commissioner determines that the policy provides benefit coverage
23 so comprehensive that the policy is a health benefit plan as
24 described by Section 1362.001.

25 SECTION 5. Section 1362.003(b), Insurance Code, is amended
26 to read as follows:

27 (b) Coverage required under this section includes at a

1 minimum:

2 (1) a physical examination for the detection of
3 prostate cancer; and

4 (2) a prostate-specific antigen test used for the
5 detection of prostate cancer for each male who[+]

6 [~~(A) is at least 50 years of age and is~~
7 ~~asymptomatic; or~~

8 [~~(B)] is at least 40 years of age [and has a~~
9 ~~family history of prostate cancer or another prostate cancer risk~~
10 ~~factor]~~.

11 SECTION 6. The heading to Section 1507.004, Insurance Code,
12 is amended to read as follows:

13 Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
14 MINIMUM REQUIREMENTS [~~REQUIREMENT~~].

15 SECTION 7. Section 1507.004, Insurance Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) Any standard health benefit plan must include coverage
18 for:

19 (1) a physical examination for the detection of
20 prostate cancer; and

21 (2) a prostate-specific antigen test used for the
22 detection of prostate cancer for each male who is at least 40 years
23 of age.

24 SECTION 8. Section 1507.054, Insurance Code, is amended to
25 read as follows:

26 Sec. 1507.054. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
27 MINIMUM REQUIREMENTS. (a) A health maintenance organization

authorized to issue an evidence of coverage in this state may offer one or more standard health benefit plans.

(b) Any standard health benefit plan must include coverage for:

(1) a physical examination for the detection of prostate cancer; and

(2) a prostate-specific antigen test used for the detection of prostate cancer for each male who is at least 40 years of age.

SECTION 9. Section 1575.159, Insurance Code, is amended to read as follows:

Sec. 1575.159. COVERAGE FOR PROSTATE-SPECIFIC ANTIGEN TEST. A health benefit plan offered under the group program must provide coverage for a medically accepted prostate-specific antigen test used for the detection of prostate cancer for each male enrolled in the plan who

~~[(1) is at least 50 years of age, or~~

~~[(2)] is at least 40 years of age [and~~

~~[(A) has a family history of prostate cancer, or~~

~~[(B) exhibits another cancer risk factor].~~

SECTION 10. If before implementing the change in law made by Section 32.024(ff), Human Resources Code, as added by this Act, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that change in law, the agency affected by the change in law shall request the waiver or authorization and may delay implementing that change in law until the waiver or authorization is granted.

1 SECTION 11. Sections 1362.001, 1362.002, 1362.003,
2 1507.004, 1507.054, and 1575.159, Insurance Code, as amended by
3 this Act, apply only to a health benefit plan that is delivered,
4 issued for delivery, or renewed on or after January 1, 2010. A
5 health benefit plan that is delivered, issued for delivery, or
6 renewed before January 1, 2010, is covered by the law in effect at
7 the time the health benefit plan was delivered, issued for
8 delivery, or renewed, and that law is continued in effect for that
9 purpose.

10 SECTION 12. The executive commissioner of the Health and
11 Human Services Commission shall adopt the rules required by Section
12 32.024(ff), Human Resources Code, as added by this Act, not later
13 than January 1, 2010.

14 SECTION 13. This Act takes effect September 1, 2009.