

By: Thompson

H.B. No. 438

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for orally administered anticancer medications.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COVERAGE FOR ORALLY ADMINISTERED ANTICANCER
MEDICATIONS

Sec. 1369.201. DEFINITION. In this subchapter, "enrollee" means an individual entitled to coverage under a health benefit plan.

Sec. 1369.202. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, 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;

- 1 (3) a fraternal benefit society operating under
2 Chapter 885;
- 3 (4) a stipulated premium company operating under
4 Chapter 884;
- 5 (5) an exchange operating under Chapter 942;
- 6 (6) a Lloyd's plan operating under Chapter 941;
- 7 (7) a health maintenance organization operating under
8 Chapter 843;
- 9 (8) a multiple employer welfare arrangement that holds
10 a certificate of authority under Chapter 846; or
- 11 (9) an approved nonprofit health corporation that
12 holds a certificate of authority under Chapter 844.

13 (b) Notwithstanding any provision in Chapter 1551, 1575,
14 1579, or 1601 or any other law, this subchapter applies to:

- 15 (1) a basic coverage plan under Chapter 1551;
- 16 (2) a basic plan under Chapter 1575;
- 17 (3) a primary care coverage plan under Chapter 1579;
- 18 and
- 19 (4) basic coverage under Chapter 1601.

20 Sec. 1369.203. EXCEPTION. This subchapter does not apply
21 to:

- 22 (1) a plan that provides coverage:
 - 23 (A) only for fixed indemnity benefits for a
24 specified disease or diseases;
 - 25 (B) only for accidental death or dismemberment;
 - 26 (C) for wages or payments in lieu of wages for a
27 period during which an employee is absent from work because of

1 sickness or injury;

2 (D) as a supplement to a liability insurance
3 policy;

4 (E) only for dental or vision care; or

5 (F) only for indemnity for hospital confinement;

6 (2) a Medicare supplemental policy as defined by
7 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

8 (3) a workers' compensation insurance policy;

9 (4) medical payment insurance coverage provided under
10 an automobile insurance policy;

11 (5) a credit insurance policy;

12 (6) a limited benefit policy that does not provide
13 coverage for physical examinations or wellness exams; or

14 (7) a long-term care insurance policy, including a
15 nursing home fixed indemnity policy, unless the commissioner
16 determines that the policy provides benefit coverage so
17 comprehensive that the policy is a health benefit plan as described
18 by Section 1369.202.

19 Sec. 1369.204. REQUIRED COVERAGE FOR ORALLY ADMINISTERED
20 ANTICANCER MEDICATIONS. (a) A health benefit plan that provides
21 coverage for cancer treatment must provide coverage for a
22 prescribed, orally administered anticancer medication that is used
23 to kill or slow the growth of cancerous cells on a basis no less
24 favorable than intravenously administered or injected cancer
25 medications that are covered as medical benefits by the plan.

26 (b) This section does not prohibit a health benefit plan
27 from requiring prior authorization for an orally administered

1 anticancer medication. If an orally administered anticancer
2 medication is authorized, the patient's out-of-pocket costs may not
3 be greater than the out-of-pocket costs for an intravenously
4 administered anticancer medication.

5 (c) Before a health benefit plan issuer increases patients'
6 out-of-pocket costs for intravenously administered anticancer
7 medications under the plan, the plan issuer must file the proposed
8 increase with the department with evidence that shows the proposed
9 increase is directly related to and necessitated by an increase in
10 costs to the plan for intravenous medication. The commissioner may
11 deny the proposed increase if the plan issuer does not make the
12 showing required by this subsection. A proposed increase may not
13 violate Subsection (a) or (b). If the commissioner does not deny
14 the proposed increase before the 61st day after the date the
15 proposed increase is filed with the department, the proposed
16 increase is considered approved, and subject to Subsections (a) and
17 (b), the plan issuer may implement the proposed increase.

18 SECTION 2. Subchapter E, Chapter 1369, Insurance Code, as
19 added by this Act, applies only to a health benefit plan that is
20 delivered, issued for delivery, or renewed on or after January 1,
21 2012. A health benefit plan that is delivered, issued for delivery,
22 or renewed before January 1, 2012, is covered by the law in effect
23 at the time the plan was delivered, issued for delivery, or renewed,
24 and that law is continued in effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2011.