

1-1 By: Thompson, et al. (Senate Sponsor - Carona) H.B. No. 438
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 27, 2011, read first time and referred to Committee on State
1-4 Affairs; May 3, 2011, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 3, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to health benefit plan coverage for orally administered
1-9 anticancer medications.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 1369, Insurance Code, is amended by
1-12 adding Subchapter E to read as follows:

1-13 SUBCHAPTER E. COVERAGE FOR ORALLY ADMINISTERED ANTICANCER
1-14 MEDICATIONS

1-15 Sec. 1369.201. DEFINITIONS. In this subchapter:

1-16 (1) "Health benefit exchange" means an American Health
1-17 Benefit Exchange administered by the federal government or created
1-18 pursuant to Section 1311(b), Patient Protection and Affordable Care
1-19 Act (42 U.S.C. Section 18031).

1-20 (2) "Qualified health plan" has the meaning assigned
1-21 by Section 1301(a), Patient Protection and Affordable Care Act (42
1-22 U.S.C. Section 18021).

1-23 Sec. 1369.202. APPLICABILITY OF SUBCHAPTER. This
1-24 subchapter applies only to a health benefit plan, including a small
1-25 employer health benefit plan written under Chapter 1501 or coverage
1-26 provided by a health group cooperative under Subchapter B of that
1-27 chapter, that provides benefits for medical or surgical expenses
1-28 incurred as a result of a health condition, accident, or sickness,
1-29 including an individual, group, blanket, or franchise insurance
1-30 policy or insurance agreement, a group hospital service contract,
1-31 or an individual or group evidence of coverage or similar coverage
1-32 document that is offered by:

1-33 (1) an insurance company;

1-34 (2) a group hospital service corporation operating
1-35 under Chapter 842;

1-36 (3) a fraternal benefit society operating under
1-37 Chapter 885;

1-38 (4) a stipulated premium company operating under
1-39 Chapter 884;

1-40 (5) an exchange operating under Chapter 942;

1-41 (6) a Lloyd's plan operating under Chapter 941;

1-42 (7) a health maintenance organization operating under
1-43 Chapter 843; or

1-44 (8) an approved nonprofit health corporation that
1-45 holds a certificate of authority under Chapter 844.

1-46 Sec. 1369.203. EXCEPTION. (a) This subchapter does not
1-47 apply to:

1-48 (1) a plan that provides coverage:

1-49 (A) only for fixed indemnity benefits for a
1-50 specified disease or diseases;

1-51 (B) only for accidental death or dismemberment;

1-52 (C) for wages or payments in lieu of wages for a
1-53 period during which an employee is absent from work because of
1-54 sickness or injury;

1-55 (D) as a supplement to a liability insurance
1-56 policy;

1-57 (E) only for dental or vision care; or

1-58 (F) only for indemnity for hospital confinement;

1-59 (2) a Medicare supplemental policy as defined by
1-60 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

1-61 (3) a workers' compensation insurance policy;

1-62 (4) medical payment insurance coverage provided under
1-63 an automobile insurance policy;

1-64 (5) a credit insurance policy;

2-1 (6) a limited benefit policy that does not provide
2-2 coverage for physical examinations or wellness exams;

2-3 (7) a multiple employer welfare arrangement that holds
2-4 a certificate of authority under Chapter 846; or

2-5 (8) a long-term care insurance policy, including a
2-6 nursing home fixed indemnity policy, unless the commissioner
2-7 determines that the policy provides benefit coverage so
2-8 comprehensive that the policy is a health benefit plan as described
2-9 by Section 1369.201.

2-10 (b) This subchapter does not apply to a qualified health
2-11 plan offered through a health benefit exchange.

2-12 Sec. 1369.204. REQUIRED COVERAGE FOR ORALLY ADMINISTERED
2-13 ANTICANCER MEDICATIONS. (a) A health benefit plan that provides
2-14 coverage for cancer treatment must provide coverage for a
2-15 prescribed, orally administered anticancer medication that is used
2-16 to kill or slow the growth of cancerous cells on a basis no less
2-17 favorable than intravenously administered or injected cancer
2-18 medications that are covered as medical benefits by the plan.

2-19 (b) This section does not prohibit a health benefit plan
2-20 from requiring prior authorization for an orally administered
2-21 anticancer medication. If an orally administered anticancer
2-22 medication is authorized, the cost to the covered individual may
2-23 not exceed the coinsurance or copayment that would be applied to a
2-24 chemotherapy or other cancer treatment visit.

2-25 (c) A health benefit plan issuer may not reclassify
2-26 anticancer medications or increase a coinsurance, copayment,
2-27 deductible, or other out-of-pocket expense imposed on anticancer
2-28 medications to achieve compliance with this section. Any plan
2-29 change that otherwise increases an out-of-pocket expense applied to
2-30 anticancer medications must also be applied to the majority of
2-31 comparable medical or pharmaceutical benefits under the plan.

2-32 (d) This section does not prohibit a health benefit plan
2-33 issuer from increasing cost-sharing for all benefits, including
2-34 anticancer treatments.

2-35 SECTION 2. Subchapter E, Chapter 1369, Insurance Code, as
2-36 added by this Act, applies only to a health benefit plan that is
2-37 delivered, issued for delivery, or renewed on or after January 1,
2-38 2012. A health benefit plan that is delivered, issued for delivery,
2-39 or renewed before January 1, 2012, is covered by the law in effect
2-40 at the time the plan was delivered, issued for delivery, or renewed,
2-41 and that law is continued in effect for that purpose.

2-42 SECTION 3. This Act takes effect September 1, 2011.

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