

By: J. Davis of Harris

H.B. No. 705

A BILL TO BE ENTITLED

AN ACT

relating to certain prohibited practices concerning the payment of copayments and deductibles under health benefit plans; providing a civil penalty and for injunctive relief.

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

SECTION 1. The heading to Chapter 552, Insurance Code, is amended to read as follows:

CHAPTER 552. ILLEGAL PRICING AND PAYMENT PRACTICES

SECTION 2. Sections 552.001, 552.002, and 552.003, Insurance Code, are designated as Subchapter A, Chapter 552, Insurance Code, and a heading is added to Subchapter A to read as follows:

SUBCHAPTER A. ILLEGAL PRICING PRACTICES

SECTION 3. Section 552.001, Insurance Code, is amended to read as follows:

Sec. 552.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. (a) This subchapter [~~chapter~~] does not apply to the provision of a health care service to a:

(1) Medicaid or Medicare patient or a patient who is covered by a federal, state, or local government-sponsored indigent health care program;

(2) financially or medically indigent person who qualifies for indigent health care services based on:

(A) a sliding fee scale; or

1 (B) a written charity care policy established by
2 a health care provider; or

3 (3) person who is not covered by a health insurance
4 policy or other health benefit plan that provides benefits for the
5 services and qualifies for services for the uninsured based on a
6 written policy established by a health care provider.

7 (b) This subchapter [~~chapter~~] does not permit the
8 establishment of health care provider policies or contracts that
9 violate any other state or federal law.

10 (c) This subchapter [~~chapter~~] does not prohibit a health
11 care provider from entering into a contract to provide services
12 covered by a health insurance policy or other health benefit plan
13 with:

14 (1) the issuer of the health insurance policy or other
15 health benefit plan; or

16 (2) a preferred provider organization that contracts
17 with the issuer of the health insurance policy or other health
18 benefit plan.

19 SECTION 4. Chapter 552, Insurance Code, is amended by
20 adding Subchapter B to read as follows:

21 SUBCHAPTER B. ILLEGAL PAYMENT PRACTICES

22 Sec. 552.051. DEFINITIONS. In this subchapter:

23 (1) "Enrollee" means an individual entitled to
24 coverage under a health benefit plan.

25 (2) "Health benefit plan" means a plan that provides
26 benefits for hospital, medical, surgical, or other treatment
27 expenses incurred as a result of a health condition, an accident, or

1 sickness, including an individual, group, blanket, or franchise
2 health insurance policy or insurance agreement, a group hospital
3 service contract, an individual or group evidence of coverage, or
4 any other similar coverage document. The term includes a
5 self-funded plan that is otherwise described by this subdivision.

6 (3) "Health care provider" means an individual or
7 entity that is licensed or otherwise authorized to provide health
8 care services or supplies in this state. The term includes:

9 (A) an individual licensed under or otherwise
10 subject to Title 3, Occupations Code; and

11 (B) a public or private entity licensed under
12 Subtitle B, Title 4, or Subtitle C, Title 7, Health and Safety Code.

13 Sec. 552.052. DUTY TO COLLECT COPAYMENT OR DEDUCTIBLE;
14 CERTAIN WAIVERS PROHIBITED. (a) Except as provided by Subsection
15 (b), a health care provider:

16 (1) shall make a good faith effort to collect any
17 applicable copayment or deductible from each enrollee in a health
18 benefit plan; and

19 (2) based on an enrollee's coverage under a health
20 benefit plan, may not waive, in cash or in kind, all or part of any
21 applicable copayment or deductible under the health benefit plan to
22 induce or encourage the enrollee to purchase, order, use, or lease
23 any facility, service, or supply.

24 (b) A health care provider may waive any applicable
25 copayment or deductible for an enrollee if the enrollee
26 demonstrates special financial need or hardship.

27 Sec. 552.053. CIVIL PENALTY; INJUNCTION. (a) If it

1 appears that an individual or entity has violated or is violating
2 this subchapter, a district or county attorney in the jurisdiction
3 where the violation is alleged to have occurred or may occur may
4 institute a civil suit for:

5 (1) an order enjoining the violation;

6 (2) a permanent or temporary injunction, a temporary
7 restraining order, or other appropriate remedy if the district or
8 county attorney shows that the individual or entity has engaged in
9 or is engaging in a violation;

10 (3) the assessment and recovery of a civil penalty; or

11 (4) both injunctive relief and a civil penalty.

12 (b) A civil penalty may not exceed \$25,000 a day for each
13 violation. Each day the violation occurs constitutes a separate
14 violation for the purposes of the assessment of a civil penalty.

15 (c) In determining the amount of the civil penalty, the
16 court hearing the matter shall consider:

17 (1) the individual's or entity's history of previous
18 violations;

19 (2) the seriousness of the violation;

20 (3) the hazard to the health and safety of the public;

21 (4) the demonstrated good faith of the individual or
22 entity charged; and

23 (5) any other matter that justice may require.

24 (d) A civil penalty recovered in a suit instituted by a
25 local government under this subchapter shall be paid to the local
26 government.

27 (e) The district or county attorney, as appropriate, may

1 recover, on behalf of the local government, reasonable expenses
2 incurred in obtaining injunctive relief or a civil penalty under
3 this section, including investigation and court costs, reasonable
4 attorney's fees, witness fees, and other expenses.

5 SECTION 5. The change in law made by this Act applies only
6 to a health benefit plan copayment or deductible relating to a
7 facility, service, or supply provided by a health care provider on
8 or after the effective date of this Act. A health benefit plan
9 copayment or deductible relating to a facility, service, or supply
10 provided before the effective date of this Act is covered by the law
11 in effect on the date the facility, service, or supply is provided,
12 and that law is continued in effect for that purpose.

13 SECTION 6. This Act takes effect September 1, 2011.