

By: Crownover

H.B. No. 739

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a voluntary consumer-directed health plan for certain individuals eligible to participate in the group benefits program provided under the Texas Employees Group Benefits Act and their qualified dependents.

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

SECTION 1. Chapter 1551, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. STATE CONSUMER-DIRECTED HEALTH PLAN

Sec. 1551.451. DEFINITIONS. In this subchapter:

(1) "High deductible health plan" means a health benefit plan that complies with Section 223(c), Internal Revenue Code of 1986, and other federal law.

(2) "Plan enrollee" means an employee or annuitant who is enrolled in the plan established under this subchapter.

(3) "Qualified medical expense" means an expense paid by a plan enrollee for medical care, as defined by Section 213(d), Internal Revenue Code of 1986, for the plan enrollee or the enrollee's dependents as defined by Section 152, Internal Revenue Code of 1986.

Sec. 1551.452. ESTABLISHMENT OF STATE CONSUMER-DIRECTED HEALTH PLAN. (a) The state consumer-directed health plan is established for the benefit of individuals eligible to participate in the group benefits program and those individuals' eligible

1 dependents.

2 (b) The board of trustees may adopt rules necessary to
3 administer this subchapter. In implementing this subchapter the
4 board shall:

5 (1) establish health savings accounts under this
6 subchapter and administer or select an administrator for the
7 accounts;

8 (2) finance or purchase a high deductible health plan
9 that:

10 (A) is an integral part of the state
11 consumer-directed health plan; and

12 (B) provides health benefit coverage, including
13 preventive health care, to a plan enrollee in the state
14 consumer-directed health plan and to the dependents of a plan
15 enrollee in accordance with Section 1551.456; and

16 (3) provide to individuals eligible to participate in
17 the group benefits program information regarding the option to
18 participate in and operation of the state consumer-directed health
19 plan established under this subchapter.

20 (c) If the board of trustees purchases a high deductible
21 health plan under this subchapter, Sections 1551.215-1551.218
22 apply to the high deductible health plan.

23 (d) In adopting rules and administering health savings
24 accounts or selecting administrators for health savings accounts
25 under this subchapter, the board of trustees shall ensure that the
26 health savings accounts are qualified for appropriate federal tax
27 exemptions.

1 Sec. 1551.453. PARTICIPATION IN STATE CONSUMER-DIRECTED
2 HEALTH PLAN; EFFECT OF PARTICIPATION. (a) The board of trustees
3 shall offer individuals eligible to participate in the basic
4 coverage plan the option of waiving participation in the basic
5 coverage plan and instead electing participation in the state
6 consumer-directed health plan.

7 (b) For purposes of this chapter, participation in the state
8 consumer-directed health plan is considered participation in the
9 group benefits program, and Sections 1551.301, 1551.303, 1551.305,
10 and 1551.306 apply to participation in the state consumer-directed
11 health plan in the same manner that those sections apply to the
12 basic coverage plan.

13 Sec. 1551.454. ACCOUNT ADMINISTRATOR. (a) The account
14 administrator selected to administer a health savings account
15 established under this subchapter must be a person:

16 (1) qualified to serve as trustee under Section
17 223(d)(1)(B), Internal Revenue Code of 1986, and the rules adopted
18 under that section; and

19 (2) experienced in administering health savings
20 accounts or other similar trust accounts.

21 (b) An account administrator is the fiduciary of a plan
22 enrollee who has a health savings account established under this
23 subchapter.

24 (c) Section 1551.056(b) does not apply to the account
25 administrator.

26 Sec. 1551.455. PARTICIPATION IN PROGRAM. (a) Each
27 individual eligible to participate in the basic coverage may choose

1 instead to participate in the state consumer-directed health plan
2 if the plan enrollee is an eligible individual under Section
3 223(c)(1), Internal Revenue Code of 1986. The dependents of a plan
4 enrollee may participate in the state consumer-directed health plan
5 in accordance with Section 1551.456.

6 (b) A plan enrollee must waive basic plan coverage to be
7 enrolled in a high deductible health plan.

8 (c) Participation in the state consumer-directed health
9 plan qualifies a plan enrollee to receive a contribution to a health
10 savings account under Section 1551.458. An individual who elects
11 not to participate in the plan is not eligible to receive a
12 contribution under that section.

13 (d) A plan enrollee is subject to Subchapter H in the same
14 manner as an individual who participates in the basic coverage
15 offered under the group benefits program.

16 (e) Under this section, the board of trustees has exclusive
17 authority to determine an individual's eligibility to participate
18 in the state consumer-directed health plan and may adopt rules
19 regarding eligibility to participate in the plan.

20 Sec. 1551.456. COVERAGE FOR DEPENDENTS; REQUIRED
21 CONTRIBUTIONS. (a) Subject to Subsection (d), a plan enrollee is
22 entitled to obtain for the enrollee's dependents coverage in the
23 state consumer-directed health plan in the manner determined by the
24 board of trustees.

25 (b) The plan enrollee shall make any required contribution
26 payments for the dependent coverage in the manner prescribed by the
27 board of trustees.

1 (c) Amounts contributed by a plan enrollee under this
2 section may be:

3 (1) used to pay the cost of coverage in the high
4 deductible health plan not paid by the state under Section
5 1551.458(b); or

6 (2) allocated by the board of trustees to an enrollee's
7 health savings account in the manner described by Section
8 1551.458(c).

9 (d) A covered dependent of a plan enrollee:

10 (1) is subject to Subchapter H in the same manner as a
11 dependent who is covered by the basic coverage offered under the
12 group benefits program; and

13 (2) must be a dependent for purposes of this chapter.

14 Sec. 1551.457. IDENTIFICATION CARDS FOR PLAN ENROLLEES.

15 (a) The board of trustees or the account administrator, as
16 applicable, shall issue to each plan enrollee an identification
17 card.

18 (b) The board of trustees or the account administrator, as
19 applicable, shall issue a duplicate identification card to each
20 plan enrollee's dependent for whom qualified medical expenses may
21 be paid out of a health savings account established under this
22 subchapter.

23 Sec. 1551.458. STATE CONTRIBUTION. (a) For each plan
24 enrollee, from the state contribution that would otherwise be made
25 for basic coverage for the enrollee, the state shall annually
26 contribute to a high deductible health plan provided under this
27 subchapter the amount that is necessary to pay the cost of coverage

1 under the high deductible health plan and does not exceed the amount
2 the state annually contributes for a full-time or part-time
3 employee, as applicable, who is covered by the basic coverage.

4 (b) For each plan enrollee's dependent covered under this
5 subchapter from the state contribution that would otherwise be made
6 for basic coverage for the dependent, the state shall annually
7 contribute to a high deductible health plan provided under this
8 subchapter the same percentage of the cost of coverage under the
9 high deductible health plan as the state annually contributes for
10 dependent coverage in the basic coverage.

11 (c) Before each plan year, the board of trustees may
12 determine how to allocate to an enrollee's health savings account
13 the portion, if any, of the state contribution that would otherwise
14 be made for basic coverage for the enrollee and that remains after
15 payment for coverage under Subsection (a) or (b).

16 (d) For a calendar year, the amount of any allocations made
17 under Subsection (c) and Section 1551.456(c)(2), in the aggregate,
18 may not exceed the sum of the monthly limitations imposed by federal
19 law for health savings accounts.

20 Sec. 1551.459. PLAN ENROLLEE CONTRIBUTIONS. (a) Each plan
21 enrollee, in accordance with Section 1551.305, shall contribute any
22 amount required to cover the selected participation in the high
23 deductible health plan that exceeds the state contribution amount
24 under Section 1551.458.

25 (b) A plan enrollee may contribute any amount allowed under
26 federal law to the enrollee's health savings account in addition to
27 receiving an allocation of the state contribution under Section

1 1551.458.

2 (c) A plan enrollee shall make contributions under this
3 section in the manner prescribed by the board of trustees.

4 Sec. 1551.460. COORDINATION WITH CAFETERIA PLAN. (a) The
5 board of trustees has exclusive authority to determine the
6 eligibility of a plan enrollee to participate in any flexible
7 spending account that is part of a cafeteria plan offered under this
8 chapter.

9 (b) The board of trustees may adopt rules regarding the
10 eligibility of a plan enrollee to participate in any flexible
11 spending account that is part of a cafeteria plan offered under this
12 chapter.

13 (c) A plan enrollee may not participate in any flexible
14 spending account that would disqualify the enrollee's health
15 savings account from favorable tax treatment under federal law.

16 Sec. 1551.461. CONFIDENTIALITY OF RECORDS. To the extent
17 allowed under federal law and subject to Section 1551.063, the
18 board of trustees or the account administrator, as applicable, may
19 disclose to a carrier information in an individual's records that
20 the board of trustees or administrator determines is necessary to
21 administer the state consumer-directed health plan.

22 Sec. 1551.462. EXEMPTION FROM EXECUTION; UNASSIGNABILITY.
23 A state contribution to a health savings account or a high
24 deductible health plan is exempt from execution and is unassignable
25 in the same manner and to the same extent as is an amount described
26 by Section 1551.011.

27 Sec. 1551.463. ASSISTANCE. Any state agency that the board

1 of trustees considers appropriate shall assist the board in
2 implementing and administering this subchapter.

3 Sec. 1551.464. EXPIRATION. This subchapter expires
4 September 1, 2019.

5 SECTION 2. The Employees Retirement System of Texas shall
6 develop the state consumer-directed health plan to be implemented
7 under Chapter 1551, Insurance Code, as amended by this Act,
8 including enrollment requirements, during the state fiscal
9 biennium beginning September 1, 2013, with coverage beginning
10 September 1, 2014.

11 SECTION 3. Not later than July 31, 2014, the Employees
12 Retirement System of Texas shall provide written information to
13 individuals eligible to participate in the state consumer-directed
14 health plan under Chapter 1551, Insurance Code, as amended by this
15 Act, that provides a general description of the requirements for
16 the plan as adopted under Chapter 1551, Insurance Code, as amended
17 by this Act.

18 SECTION 4. The Employees Retirement System of Texas shall
19 develop and implement the health savings account program under
20 Chapter 1551, Insurance Code, as amended by this Act, in a manner
21 that is as revenue neutral as is possible.

22 SECTION 5. (a) Not later than January 1, 2019, the board of
23 trustees of the Employees Retirement System of Texas shall submit a
24 report to the governor, lieutenant governor, speaker of the house
25 of representatives, and Legislative Budget Board concerning:

26 (1) the manner in which, and the level at which, plan
27 enrollees use the coverage provided under the state

1 consumer-directed health plan established under Subchapter J,
2 Chapter 1551, Insurance Code, as added by this Act;

3 (2) whether the coverage provided under the state
4 consumer-directed health plan established under Subchapter J,
5 Chapter 1551, Insurance Code, as added by this Act, is more or less
6 cost-effective for plan enrollees and the state than the coverage
7 provided under the basic coverage plan under Chapter 1551,
8 Insurance Code; and

9 (3) whether continuation of the state
10 consumer-directed health plan established under Subchapter J,
11 Chapter 1551, Insurance Code, as added by this Act, is feasible or
12 desirable.

13 (b) The report required by this section may be submitted
14 separately from, or included in, the annual report that is required
15 under Section 1551.061, Insurance Code, and is submitted closest to
16 January 1, 2019.

17 SECTION 6. It is the intent of the legislature that in
18 implementing an optional consumer-directed health plan, the
19 Employees Retirement System of Texas may not divide the self-funded
20 risk pool of the state employees group benefits program provided
21 under Chapter 1551, Insurance Code.

22 SECTION 7. This Act takes effect September 1, 2013.