

AN ACT

relating to health benefit plan coverage for brain injury.

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

SECTION 1. Section 1352.001, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(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 basic plan under Chapter 1575;

(3) [~~2~~] a primary care coverage plan under Chapter 1579; and

(4) [~~3~~] basic coverage under Chapter 1601.

(c) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

SECTION 2. Section 1352.002, Insurance Code, is amended to read as follows:

Sec. 1352.002. EXCEPTION; APPLICATION TO QUALIFIED HEALTH PLAN. (a) This chapter does not apply to:

(1) a plan that provides coverage:

(A) only for a specified disease or for another limited benefit other than an accident policy;

(B) only for accidental death or dismemberment;

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

4 (D) as a supplement to a liability insurance  
5 policy;

6 (E) for credit insurance;

7 (F) only for dental or vision care;

8 (G) only for hospital expenses; or

9 (H) only for indemnity for hospital confinement;

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

13 (3) a workers' compensation insurance policy;

14 (4) medical payment insurance coverage provided under  
15 a motor vehicle insurance policy; or

16 (5) a long-term care insurance policy, including a  
17 nursing home fixed indemnity policy, unless the commissioner  
18 determines that the policy provides benefit coverage so  
19 comprehensive that the policy is a health benefit plan as described  
20 by Section 1352.001.

21 (b) This chapter does not apply to a standard health benefit  
22 plan issued under Chapter 1507.

23 (c) To the extent that a change in law made to this chapter  
24 after January 1, 2013, would otherwise require this state to make a  
25 payment under 42 U.S.C. Section 18031(d)(3)(B)(ii), a qualified  
26 health plan, as defined by 45 C.F.R. Section 155.20, is not required  
27 to provide a benefit under this section that exceeds the specified

1 essential health benefits required under 42 U.S.C. Section  
2 18022(b).

3 SECTION 3. Section 1352.003, Insurance Code, is amended by  
4 amending Subsections (c) and (d) and adding Subsection (c-1) to  
5 read as follows:

6 (c) A health benefit plan may not include, in any annual or  
7 lifetime limitation on the number of days of acute care treatment  
8 covered under the plan, any post-acute care treatment covered under  
9 the plan. [~~Any limitation imposed under the plan on days of~~  
10 ~~post-acute care treatment must be separately stated in the plan.]~~

11 (c-1) A health benefit plan may not limit the number of days  
12 of covered post-acute care, including any therapy or treatment or  
13 rehabilitation, testing, remediation, or other service described  
14 by Subsections (a) and (b), or the number of days of covered  
15 inpatient care to the extent that the treatment or care is  
16 determined to be medically necessary as a result of and related to  
17 an acquired brain injury. The insured's or enrollee's treating  
18 physician shall determine whether treatment or care is medically  
19 necessary for purposes of this subsection in consultation with the  
20 treatment or care provider, the insured or enrollee, and, if  
21 appropriate, members of the insured's or enrollee's family. The  
22 determination is subject to review under Section 1352.006.

23 (d) Except as provided by Subsection (c) or (c-1), a health  
24 benefit plan must include the same amount [~~payment~~] limitations,  
25 deductibles, copayments, and coinsurance factors for coverage  
26 required under this chapter as applicable to other medical  
27 conditions for which [~~similar~~] coverage is provided under the

1 health benefit plan.

2 SECTION 4. Section 1352.0035(b), Insurance Code, is amended  
3 to read as follows:

4 (b) Coverage required under this section may be subject to  
5 deductibles, copayments, coinsurance, or annual or maximum amount  
6 ~~[payment]~~ limits that are consistent with the deductibles,  
7 copayments, coinsurance, or annual or maximum amount ~~[payment]~~  
8 limits applicable to other medical conditions for which ~~[similar]~~  
9 coverage is provided under the small employer health benefit plan.

10 SECTION 5. Section 1352.007, Insurance Code, is amended by  
11 adding Subsections (c), (d), (e), and (f) to read as follows:

12 (c) The issuer of a health benefit plan, including a  
13 preferred provider benefit plan or health maintenance organization  
14 plan, that contracts with or approves admission to a service  
15 provider under this chapter may not, solely because a facility is  
16 licensed by this state as an assisted living facility, refuse to  
17 contract with or approve admission to that facility to provide  
18 services that are:

19 (1) required under this chapter;

20 (2) within the scope of the license of an assisted  
21 living facility; and

22 (3) within the scope of the services provided under a  
23 CARF-accredited rehabilitation program for brain injury or another  
24 nationally recognized accredited rehabilitation program for brain  
25 injury.

26 (d) The issuer of a health benefit plan that requires or  
27 encourages insureds or enrollees to use health care providers

1 designated by the plan shall ensure that the services required by  
2 this chapter that are within the scope of the license of an assisted  
3 living facility and that may be provided under a program described  
4 by Subsection (c)(3) are made available and accessible to the  
5 insureds or enrollees at an adequate number of assisted living  
6 facilities.

7 (e) A health benefit plan may not treat care provided in  
8 accordance with this chapter as custodial care solely because it is  
9 provided by an assisted living facility if the facility holds a CARF  
10 accreditation or other nationally recognized accreditation for a  
11 rehabilitation program for brain injury.

12 (f) To ensure the health and safety of insureds and  
13 enrollees, the commissioner may require that a licensed assisted  
14 living facility that provides covered post-acute care other than  
15 custodial care under this chapter to an insured or enrollee with  
16 acquired brain injury hold a CARF accreditation or other nationally  
17 recognized accreditation for a rehabilitation program for brain  
18 injury.

19 SECTION 6. Chapter 1352, Insurance Code, as amended by this  
20 Act, applies only to a health benefit plan delivered, issued for  
21 delivery, or renewed on or after January 1, 2014. A health benefit  
22 plan delivered, issued for delivery, or renewed before January 1,  
23 2014, is governed by the law in effect immediately before the  
24 effective date of this Act, and that law is continued in effect for  
25 that purpose.

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

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 2929 was passed by the House on May 8, 2013, by the following vote: Yeas 145, Nays 2, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 2929 was passed by the Senate on May 17, 2013, by the following vote: Yeas 22, Nays 8.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor