By: Sheets (Senate Sponsor - Deuell) H.B. No. 2929

(In the Senate - Received from the House May 9, 2013; May 9, 2013, read first time and referred to Committee on State Affairs; May 15, 2013, reported favorably by the following vote: Yeas 8, Nays 1; May 15, 2013, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Duncan	X			
Deuell	X			
Ellis	X			
Fraser	X			
Huffman	X			
Lucio	X			
Nichols		X		
Van de Putte	X			
Williams	X			

A BILL TO BE ENTITLED
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;

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

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

(E) for credit insurance;

(F) only for dental or vision care;

(G) only for hospital expenses; or

(H) only for indemnity for hospital confinement;

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

(3) a workers' compensation insurance policy;

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

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

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

(c) To the extent that a change in law made to this chapter after January 1, 2013, would otherwise require this state to make a payment under 42 U.S.C. Section 18031(d)(3)(B)(ii), a qualified health plan, as defined by 45 C.F.R. Section 155.20, is not required to provide a benefit under this section that exceeds the specified essential health benefits required under 42 U.S.C. Section 18022(b).

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

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

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

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

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

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

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

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

(1) required under this chapter;

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

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

(d) The issuer of a health benefit plan that requires or encourages insureds or enrollees to use health care providers designated by the plan shall ensure that the services required by this chapter that are within the scope of the license of an assisted living facility and that may be provided under a program described by Subsection (c)(3) are made available and accessible to the insureds or enrollees at an adequate number of assisted living facilities.

(e) A health benefit plan may not treat care provided in accordance with this chapter as custodial care solely because it is

provided by an assisted living facility if the facility holds a CARF accreditation or other nationally recognized accreditation for a rehabilitation program for brain injury.

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

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

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

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