

By: Coleman

H.B. No. 3326

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for an enrollee with certain mental disorders.

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

ARTICLE 1. AMENDMENTS TO SUBCHAPTER A, CHAPTER 1355,

INSURANCE CODE

SECTION 1.01. The heading to Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

SUBCHAPTER A. ~~[GROUP]~~ HEALTH BENEFIT PLAN COVERAGE FOR CERTAIN ~~[SERIOUS]~~ MENTAL ~~[ILLNESSES AND OTHER]~~ DISORDERS

SECTION 1.02. Sections 1355.001 through 1355.007, Insurance Code, are amended to read as follows:

Sec. 1355.001. DEFINITIONS. In this subchapter:

(1) "Mental disorder" ~~["Serious mental illness"]~~ means a disorder ~~[the following psychiatric illnesses]~~ as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition, or in a subsequent edition of that manual that the commissioner adopts to take the place of the fourth edition or any subsequent edition for the purposes of this subdivision, that results in an impairment of a person's functioning in the person's community, employment, family, school, or social group ~~[(DSM):~~

~~[(A) bipolar disorders (hypomanic, manic, depressive, and mixed),~~

1 ~~[(B) depression in childhood and adolescence,~~
2 ~~[(C) major depressive disorders (single episode~~
3 ~~or recurrent),~~
4 ~~[(D) obsessive-compulsive disorders,~~
5 ~~[(E) paranoid and other psychotic disorders,~~
6 ~~[(F) schizo-affective disorders (bipolar or~~
7 ~~depressive), and~~
8 ~~[(G) schizophrenia].~~

9 (2) ~~["Small employer" has the meaning assigned by~~
10 ~~Section 1501.002.~~

11 ~~[(3)]~~ "Autism spectrum disorder" means a
12 neurobiological disorder that includes autism, Asperger's
13 syndrome, or Pervasive Developmental Disorder--Not Otherwise
14 Specified.

15 ~~[(4) "Neurobiological disorder" means an illness of~~
16 ~~the nervous system caused by genetic, metabolic, or other~~
17 ~~biological factors.]~~

18 Sec. 1355.002. APPLICABILITY OF SUBCHAPTER. (a) This
19 subchapter applies only to a ~~[group]~~ health benefit plan that
20 provides benefits for medical or surgical expenses incurred as a
21 result of a health condition, accident, or sickness, including an
22 individual, ~~[+~~

23 ~~[(1) a]~~ group, blanket, or franchise insurance policy
24 or ~~[, group]~~ insurance agreement, a group hospital service contract,
25 an individual or group evidence of coverage, or a similar coverage
26 document, that is offered by:

27 (1) ~~[(A)]~~ an insurance company;

1 (2) [~~(B)~~] a group hospital service corporation
2 operating under Chapter 842;

3 (3) [~~(C)~~] a fraternal benefit society operating under
4 Chapter 885;

5 (4) [~~(D)~~] a stipulated premium company operating
6 under Chapter 884; [~~or~~]

7 (5) [~~(E)~~] a health maintenance organization operating
8 under Chapter 843;

9 (6) a reciprocal exchange operating under Chapter 942;

10 (7) a Lloyd's plan operating under Chapter 941;

11 (8) an approved nonprofit health corporation that
12 holds a certificate of authority under Chapter 844; or [~~and~~]

13 (9) [~~(2) to the extent permitted by the Employee~~
14 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~
15 ~~seq.), a plan offered under:~~

16 [~~(A)~~] a multiple employer welfare arrangement
17 that holds a certificate of authority under Chapter 846 [~~as defined~~
18 ~~by Section 3 of that Act, or~~

19 [~~(B) another analogous benefit arrangement~~].

20 (b) Notwithstanding any provision in Chapter 1575 or 1579 or
21 any other law, Section 1355.015 applies to:

22 (1) a basic plan under Chapter 1575; and

23 (2) a primary care coverage plan under Chapter 1579.

24 (c) This subchapter applies to a small employer health
25 benefit plan written under Chapter 1501.

26 Sec. 1355.003. EXCEPTION. [~~(a)~~] This subchapter does not
27 apply to [~~coverage under~~]:

- 1 (1) a plan that provides coverage:
- 2 (A) only for benefits for a specified disease or
- 3 for another limited benefit, other than a plan that provides
- 4 benefits for mental health or similar services;
- 5 (B) only for accidental death or dismemberment;
- 6 (C) for wages or payments in lieu of wages for a
- 7 period during which an employee is absent from work because of
- 8 sickness or injury;
- 9 (D) as a supplement to a liability insurance
- 10 policy;
- 11 (E) only for dental or vision care;
- 12 (F) only for hospital expenses; or
- 13 (G) only for indemnity for hospital confinement;
- 14 (2) a Medicare supplemental policy as defined by
- 15 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
- 16 (3) a workers' compensation insurance policy;
- 17 (4) medical payment insurance coverage provided under
- 18 an automobile insurance policy;
- 19 (5) a credit insurance policy; or
- 20 (6) a long-term care insurance policy, including a
- 21 nursing home fixed indemnity policy, unless the commissioner
- 22 determines that the policy provides benefit coverage so
- 23 comprehensive that the policy is a health benefit plan as described
- 24 by Section 1355.002 [a blanket accident and health insurance
- 25 policy, as described by Chapter 1251,
- 26 ~~[(2) a short-term travel policy,~~
- 27 ~~[(3) an accident-only policy,~~

1 ~~[(4) a limited or specified-disease policy that does~~
2 ~~not provide benefits for mental health care or similar services,~~

3 ~~[(5) except as provided by Subsection (b), a plan~~
4 ~~offered under Chapter 1551 or Chapter 1601,~~

5 ~~[(6) a plan offered in accordance with Section~~
6 ~~1355.151; or~~

7 ~~[(7) a Medicare supplement benefit plan, as defined by~~
8 ~~Section 1652.002].~~

9 ~~[(b) For the purposes of a plan described by Subsection~~
10 ~~(a)(5), "serious mental illness" has the meaning assigned by~~
11 ~~Section 1355.001.]~~

12 Sec. 1355.004. REQUIRED COVERAGE [~~FOR SERIOUS MENTAL~~
13 ~~ILLNESS~~]. ~~[(a)]~~ A group health benefit plan~~+~~

14 ~~[(1)]~~ must provide coverage for the diagnosis and
15 treatment of a mental disorder under the same terms and conditions
16 as coverage provided for the diagnosis and treatment of physical
17 illness~~[, based on medical necessity, for not less than the~~
18 ~~following treatments of serious mental illness in each calendar~~
19 ~~year:~~

20 ~~[(A) 45 days of inpatient treatment; and~~

21 ~~[(B) 60 visits for outpatient treatment,~~
22 ~~including group and individual outpatient treatment,~~

23 ~~[(2) may not include a lifetime limitation on the~~
24 ~~number of days of inpatient treatment or the number of visits for~~
25 ~~outpatient treatment covered under the plan; and~~

26 ~~[(3) must include the same amount limitations,~~
27 ~~deductibles, copayments, and coinsurance factors for serious~~

1 ~~mental illness as the plan includes for physical illness].~~

2 ~~[(b) A group health benefit plan issuer:~~

3 ~~[(1) may not count an outpatient visit for medication~~
4 ~~management against the number of outpatient visits required to be~~
5 ~~covered under Subsection (a)(1)(B); and~~

6 ~~[(2) must provide coverage for an outpatient visit~~
7 ~~described by Subsection (a)(1)(B) under the same terms as the~~
8 ~~coverage the issuer provides for an outpatient visit for the~~
9 ~~treatment of physical illness.]~~

10 Sec. 1355.005. COVERAGE OF INPATIENT STAYS AND OUTPATIENT
11 VISITS. A health benefit plan must cover inpatient stays and
12 outpatient visits under this subchapter under the same terms and
13 conditions as the plan covers inpatient stays and outpatient visits
14 for treatment of a physical illness. [~~MANAGED CARE PLAN~~
15 ~~AUTHORIZED. A group health benefit plan issuer may provide or~~
16 ~~offer coverage required by Section 1355.004 through a managed care~~
17 ~~plan.]~~

18 Sec. 1355.006. AMOUNT LIMITS; DEDUCTIBLES; COPAYMENTS;
19 COINSURANCE. Coverage provided under this subchapter must be
20 subject to the same amount limits, deductibles, copayments, and
21 coinsurance factors as coverage for physical illness. [~~COVERAGE FOR~~
22 ~~CERTAIN CONDITIONS RELATED TO CONTROLLED SUBSTANCE OR MARIHUANA NOT~~
23 ~~REQUIRED. (a) In this section, "controlled substance" and~~
24 ~~"marihuana" have the meanings assigned by Section 481.002, Health~~
25 ~~and Safety Code.~~

26 ~~[(b) This subchapter does not require a group health benefit~~
27 ~~plan to provide coverage for the treatment of:~~

1 ~~[(1) addiction to a controlled substance or marihuana~~
2 ~~that is used in violation of law; or~~

3 ~~[(2) mental illness that results from the use of a~~
4 ~~controlled substance or marihuana in violation of law.]~~

5 Sec. 1355.007. RULES. The commissioner shall adopt rules
6 as necessary to implement this subchapter. [~~SMALL EMPLOYER~~
7 ~~COVERAGE. An issuer of a group health benefit plan to a small~~
8 ~~employer must offer the coverage described by Section 1355.004 to~~
9 ~~the employer but is not required to provide the coverage if the~~
10 ~~employer rejects the coverage.]~~

11 ARTICLE 2. CONFORMING AMENDMENTS

12 SECTION 2.01. Section 1355.151, Insurance Code, is amended
13 to read as follows:

14 Sec. 1355.151. PROHIBITION ON EXCLUSION OR LIMITATION OF
15 CERTAIN COVERAGES. (a) In this section, "mental disorder"
16 [~~"serious mental illness"~~] has the meaning assigned by Section
17 1355.001.

18 (b) A political subdivision that provides group health
19 insurance coverage, health maintenance organization coverage, or
20 self-insured health care coverage to the political subdivision's
21 officers or employees may not contract for or provide coverage that
22 is less extensive for a mental disorder [~~serious mental illness~~]
23 than the coverage provided for any other physical illness.

24 SECTION 2.02. Section 1507.003(b), Insurance Code, is
25 amended to read as follows:

26 (b) For purposes of this subchapter, "state-mandated health
27 benefits" does not include benefits that are mandated by federal

1 law or standard provisions or rights required under this code or
2 other laws of this state to be provided in an individual, blanket,
3 or group policy for accident and health insurance that are
4 unrelated to a specific health illness, injury, or condition of an
5 insured, including provisions related to:

6 (1) continuation of coverage under:

7 (A) Subchapters F and G, Chapter 1251;

8 (B) Section 1201.059; and

9 (C) Subchapter B, Chapter 1253;

10 (2) termination of coverage under Sections 1202.051
11 and 1501.108;

12 (3) preexisting conditions under Subchapter D,
13 Chapter 1201, and Sections 1501.102-1501.105;

14 (4) coverage of children, including newborn or adopted
15 children, under:

16 (A) Subchapter D, Chapter 1251;

17 (B) Sections 1201.053, 1201.061,
18 1201.063-1201.065, and Subchapter A, Chapter 1367;

19 (C) Chapter 1504;

20 (D) Chapter 1503;

21 (E) Section 1501.157;

22 (F) Section 1501.158; and

23 (G) Sections 1501.607-1501.609;

24 (5) services of practitioners under:

25 (A) Subchapters A, B, and C, Chapter 1451; or

26 (B) Section 1301.052;

27 (6) supplies and services associated with the

1 treatment of diabetes under Subchapter B, Chapter 1358;

2 (7) coverage for a mental disorder [~~serious mental~~
3 ~~illness~~] under Subchapter A, Chapter 1355;

4 (8) coverage for childhood immunizations and hearing
5 screening as required by Subchapters B and C, Chapter 1367, other
6 than Section 1367.053(c) and Chapter 1353;

7 (9) coverage for reconstructive surgery for certain
8 craniofacial abnormalities of children as required by Subchapter D,
9 Chapter 1367;

10 (10) coverage for the dietary treatment of
11 phenylketonuria as required by Chapter 1359;

12 (11) coverage for referral to a non-network physician
13 or provider when medically necessary covered services are not
14 available through network physicians or providers, as required by
15 Section 1271.055; and

16 (12) coverage for cancer screenings under:

17 (A) Chapter 1356;

18 (B) Chapter 1362;

19 (C) Chapter 1363; and

20 (D) Chapter 1370.

21 SECTION 2.03. Section 1507.053(b), Insurance Code, is
22 amended to read as follows:

23 (b) For purposes of this subchapter, "state-mandated health
24 benefits" does not include coverage that is mandated by federal law
25 or standard provisions or rights required under this code or other
26 laws of this state to be provided in an evidence of coverage that
27 are unrelated to a specific health illness, injury, or condition of

1 an enrollee, including provisions related to:

2 (1) continuation of coverage under Subchapter G,
3 Chapter 1251;

4 (2) termination of coverage under Sections 1202.051
5 and 1501.108;

6 (3) preexisting conditions under Subchapter D,
7 Chapter 1201, and Sections 1501.102-1501.105;

8 (4) coverage of children, including newborn or adopted
9 children, under:

10 (A) Chapter 1504;

11 (B) Chapter 1503;

12 (C) Section 1501.157;

13 (D) Section 1501.158; and

14 (E) Sections 1501.607-1501.609;

15 (5) services of providers under Section 843.304;

16 (6) coverage for a mental disorder [~~serious mental~~
17 ~~health illness~~] under Subchapter A, Chapter 1355; and

18 (7) coverage for cancer screenings under:

19 (A) Chapter 1356;

20 (B) Chapter 1362;

21 (C) Chapter 1363; and

22 (D) Chapter 1370.

23 SECTION 2.04. Section 1551.003, Insurance Code, is amended
24 by amending Subdivision (10-a) and adding Subdivision (10-b) to
25 read as follows:

26 (10-a) "Mental disorder" has the meaning assigned by
27 Section 1355.001.

1 (10-b) "Participant" means an eligible individual who
2 participates in the group benefits program.

3 SECTION 2.05. Section 1551.205, Insurance Code, is amended
4 to read as follows:

5 Sec. 1551.205. LIMITATIONS. The board of trustees may not
6 contract for or provide a coverage plan that:

7 (1) excludes or limits coverage or services for
8 acquired immune deficiency syndrome, as defined by the Centers for
9 Disease Control and Prevention of the United States Public Health
10 Service, or human immunodeficiency virus infection;

11 (2) provides coverage for a mental disorder [~~serious~~
12 ~~mental illness~~] that is less extensive than the coverage provided
13 for any physical illness; or

14 (3) may provide coverage for prescription drugs to
15 assist in stopping smoking at a lower benefit level than is provided
16 for other prescription drugs.

17 SECTION 2.06. Section 1601.109, Insurance Code, is amended
18 to read as follows:

19 Sec. 1601.109. COVERAGE FOR AIDS, HIV, OR [~~SERIOUS~~ MENTAL
20 DISORDER [~~ILLNESS~~]. (a) In this section, "mental disorder"
21 [~~"serious mental illness"~~] has the meaning assigned by Section
22 1355.001.

23 (b) A system may not contract for or provide for group
24 insurance or HMO coverage or provide self-insured coverage, that:

25 (1) excludes or limits coverage or services for
26 acquired immune deficiency syndrome, as defined by the Centers for
27 Disease Control and Prevention of the United States Public Health

1 Service, or human immunodeficiency virus infection; or

2 (2) provides coverage for a mental disorder [~~serious~~
3 ~~mental illness~~] that is less extensive than the coverage provided
4 for any other physical illness.

5 SECTION 2.07. Section 1551.003(12), Insurance Code, is
6 repealed.

7 ARTICLE 3. TRANSITION; EFFECTIVE DATE

8 SECTION 3.01. The change in law made by this Act applies
9 only to a health benefit plan delivered, issued for delivery, or
10 renewed on or after January 1, 2014. A health benefit plan
11 delivered, issued for delivery, or renewed before January 1, 2014,
12 is governed by the law as it existed immediately before the
13 effective date of this Act, and that law is continued in effect for
14 that purpose.

15 SECTION 3.02. This Act takes effect September 1, 2013.