

By: Zerwas

H.B. No. 2541

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage of certain treatments for enrollees diagnosed with a terminal illness; authorizing administrative and civil penalties.

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

SECTION 1. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1372 to read as follows:

CHAPTER 1372. ACCESS TO TREATMENT FOR INDIVIDUALS WITH A TERMINAL ILLNESS

Sec. 1372.001. DEFINITIONS. In this chapter:

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

(2) "Physician" means an individual licensed to practice medicine in this state.

(3) "Terminal illness" means an illness or physical condition, including a physical injury, that can reasonably be expected to result in death within not more than two years.

Sec. 1372.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- 1 (1) an insurance company;
2 (2) a group hospital service corporation operating
3 under Chapter 842;
4 (3) a health maintenance organization operating under
5 Chapter 843;
6 (4) an approved nonprofit health corporation that
7 holds a certificate of authority under Chapter 844;
8 (5) a multiple employer welfare arrangement that holds
9 a certificate of authority under Chapter 846;
10 (6) a stipulated premium company operating under
11 Chapter 884;
12 (7) a fraternal benefit society operating under
13 Chapter 885; or
14 (8) an exchange operating under Chapter 942.
15 (b) Notwithstanding Section 172.014, Local Government Code,
16 or any other law, this chapter applies to health and accident
17 coverage provided by a risk pool created under Chapter 172, Local
18 Government Code.
19 (c) This chapter applies to group health coverage made
20 available by a school district in accordance with Section 22.004,
21 Education Code.
22 (d) Notwithstanding any provision in Chapter 1551, 1575,
23 1579, or 1601 or any other law, this chapter applies to health
24 benefit plan coverage provided under:
25 (1) Chapter 1551;
26 (2) Chapter 1575;
27 (3) Chapter 1579; and

1 (4) Chapter 1601.

2 (e) Notwithstanding Section 1501.251 or any other law, this
3 chapter applies to coverage under a small employer health benefit
4 plan subject to Chapter 1501.

5 (f) This chapter applies to a consumer choice of benefits
6 plan issued under Chapter 1507.

7 (g) To the extent allowed by federal law, the child health
8 plan program operated under Chapter 62, Health and Safety Code, the
9 health benefits plan for children operated under Chapter 63, Health
10 and Safety Code, the state Medicaid program, and a managed care
11 organization that contracts with the Health and Human Services
12 Commission to provide health care services to recipients through a
13 managed care plan shall provide coverage to a recipient in
14 accordance with this chapter.

15 Sec. 1372.003. EXCEPTION TO APPLICABILITY OF CHAPTER. This
16 chapter does not apply to:

17 (1) a health benefit plan that provides coverage:

18 (A) only for a specified disease or for another
19 limited benefit;

20 (B) only for accidental death or dismemberment;

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

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

26 (E) for credit insurance;

27 (F) only for dental or vision care;

- 1 (G) only for hospital expenses; or
2 (H) only for indemnity for hospital confinement;
3 (2) a Medicare supplemental policy as defined by
4 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
5 (3) a workers' compensation insurance policy;
6 (4) medical payment insurance coverage provided under
7 a motor vehicle insurance policy; or
8 (5) a long-term care insurance policy, including a
9 nursing home fixed indemnity policy, unless the commissioner
10 determines that the policy provides benefit coverage so
11 comprehensive that the policy is a health benefit plan as described
12 by Section 1372.002.

13 Sec. 1372.004. APPLICABILITY TO CERTAIN TREATMENT. This
14 chapter applies to treatment for an enrollee diagnosed by a
15 physician with a terminal illness:

- 16 (1) that is:
17 (A) medically accepted as treatment for the
18 terminal illness or another illness or condition with which the
19 enrollee has been diagnosed by a physician; and
20 (B) prescribed by a physician to treat the
21 terminal illness or other illness or condition; and
22 (2) to which the enrollee or the enrollee's legal
23 guardian or other legal representative consents.

24 Sec. 1372.005. CERTAIN DENIALS OF COVERAGE PROHIBITED.
25 Notwithstanding any other law, a health benefit plan may not deny
26 coverage for a treatment to which this chapter applies based solely
27 on the enrollee's diagnosis with a terminal illness.

1 Sec. 1372.006. PROHIBITED CONDUCT. A health benefit plan
2 issuer or third-party administrator may not with respect to a
3 treatment to which this chapter applies:

4 (1) refuse to accept a physician's recommendation of
5 the treatment based solely on the enrollee's diagnosis with a
6 terminal illness; or

7 (2) reduce, prohibit, or deny payment or other forms
8 of reimbursement for the treatment based solely on the enrollee's
9 diagnosis with a terminal illness.

10 Sec. 1372.007. UNFAIR OR DECEPTIVE ACT OR PRACTICE; UNFAIR
11 CLAIM SETTLEMENT PRACTICE. A violation of this chapter is an unfair
12 or deceptive act or practice in the business of insurance for
13 purposes of Chapter 541 and an unfair claim settlement practice for
14 purposes of Chapter 542.

15 Sec. 1372.008. ADMINISTRATIVE PENALTIES. A health benefit
16 plan issuer or third-party administrator that commits a violation
17 of this chapter is subject to administrative penalties under
18 Chapters 82 and 84.

19 SECTION 2. Chapter 1372, Insurance Code, as added by this
20 Act, applies only to a health benefit plan that is delivered, issued
21 for delivery, or renewed on or after September 1, 2015. A plan
22 delivered, issued for delivery, or renewed before September 1,
23 2015, is governed by the law as it existed immediately before the
24 effective date of this Act, and that law is continued in effect for
25 that purpose.

26 SECTION 3. This Act takes effect September 1, 2015.