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H.B. No. 1635

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for early childhood
intervention services.

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

SECTION 1. The heading to Subchapter E, Chapter 1367,
Insurance Code, is amended to read as follows:

SUBCHAPTER E. EARLY CHILDHOOD INTERVENTION SERVICES AND

DEVELOPMENTAL DELAYS

SECTION 2. Section 1367.201, Insurance Code, is amended to
read as follows:

Sec. 1367.201. DEFINITION. In this subchapter,
rehabilitative and habilitative therapies include:

- (1) occupational therapy evaluations and services;
- (2) physical therapy evaluations and services;
- (3) speech therapy evaluations and services; ~~and~~
- (4) dietary or nutritional evaluations;
- (5) specialized skills training by a person certified
as an early intervention specialist;
- (6) applied behavior analysis treatment by a licensed
behavior analyst or licensed psychologist; and
- (7) case management provided by a licensed
practitioner of the healing arts or a person certified as an early
intervention specialist.

SECTION 3. Section 1367.202, Insurance Code, is amended to

1 read as follows:

2 Sec. 1367.202. APPLICABILITY OF SUBCHAPTER. (a) This
3 subchapter applies only to a health benefit plan that:

4 (1) provides benefits for medical or surgical expenses
5 incurred as a result of a health condition, accident, or sickness,
6 including an individual, group, blanket, or franchise insurance
7 policy or insurance agreement, a group hospital service contract,
8 or an individual or group evidence of coverage that is offered by:

9 (A) an insurance company;

10 (B) a group hospital service corporation
11 operating under Chapter 842;

12 (C) a fraternal benefit society operating under
13 Chapter 885;

14 (D) a stipulated premium company operating under
15 Chapter 884;

16 (E) a health maintenance organization operating
17 under Chapter 843; or

18 (F) a multiple employer welfare arrangement
19 subject to regulation under Chapter 846;

20 (2) is offered by an approved nonprofit health
21 corporation that holds a certificate of authority under Chapter
22 844; or

23 (3) provides health and accident coverage through a
24 risk pool created under Chapter 172, Local Government Code,
25 notwithstanding Section 172.014, Local Government Code, or any
26 other law.

27 (b) Notwithstanding any other law, this subchapter also

1 applies to a standard health benefit plan provided under Chapter
2 1507.

3 SECTION 4. Section 1367.203, Insurance Code, is amended to
4 read as follows:

5 Sec. 1367.203. EXCEPTION. (a) This subchapter does not
6 apply to:

7 (1) a plan that provides coverage:

8 (A) only for a specified disease or for another
9 limited benefit;

10 (B) only for accidental death or dismemberment;

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

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

16 (E) for credit insurance;

17 (F) only for dental or vision care; or

18 (G) only for indemnity for hospital confinement;

19 (2) a small employer health benefit plan written under
20 Chapter 1501;

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

23 (4) a workers' compensation insurance policy;

24 (5) medical payment insurance coverage provided under
25 a motor vehicle insurance policy; or

26 (6) a long-term care insurance policy, including a
27 nursing home fixed indemnity policy, unless the commissioner

1 determines that the policy provides benefit coverage so
2 comprehensive that the policy is a health benefit plan as described
3 by Section 1367.202.

4 (b) This subchapter does not apply to a qualified health
5 plan to the extent that a determination is made under 45 C.F.R.
6 Section 155.170 that:

7 (1) this subchapter requires the plan to offer
8 benefits in addition to the essential health benefits required
9 under 42 U.S.C. Section 18022(b); and

10 (2) this state is required to defray the cost of the
11 benefits mandated under this subchapter.

12 SECTION 5. Section 1367.204, Insurance Code, is amended to
13 read as follows:

14 Sec. 1367.204. [~~OFFER OF~~] COVERAGE REQUIRED. [~~(a)~~] A
15 health benefit plan issuer must provide [~~offer~~] coverage that
16 complies with this subchapter.

17 [~~(b) The individual or group policy or contract holder may~~
18 ~~reject coverage required to be offered under this section.~~]

19 SECTION 6. Section 1367.205, Insurance Code, is amended by
20 amending Subsections (a) and (b) and adding Subsections (d), (e),
21 and (f) to read as follows:

22 (a) Except as provided by Subsection (d), a [A] health
23 benefit plan that provides coverage for rehabilitative and
24 habilitative therapies under this subchapter may not prohibit or
25 restrict payment for covered services provided to a child and
26 determined to be necessary to and provided in accordance with an
27 individualized family service plan [~~issued by the Interagency~~

1 ~~Council on Early Childhood Intervention]~~ under Chapter 73, Human
2 Resources Code.

3 (b) Except as provided by Subsection (d),
4 rehabilitative [Rehabilitative] and habilitative therapies
5 described by Subsection (a) must be covered in the amount,
6 duration, scope, and service setting established in the child's
7 individualized family service plan.

8 (d) Coverage required by this section for specialized
9 skills training may be subject to an annual limit of \$9,000,
10 including case management costs, for each child. A health benefit
11 plan may not apply this limit to:

12 (1) coverage for other rehabilitative and
13 habilitative therapies described by Subsection (a); or

14 (2) coverage required by any other law, including:

15 (A) Section 1355.015; and

16 (B) the Medicaid program operated under Chapter
17 32, Human Resources Code.

18 (e) A health benefit plan prior authorization requirement,
19 or any other utilization management requirement, otherwise
20 applicable to a covered rehabilitative or habilitative therapy
21 service is satisfied if the service is specified in a child's
22 individualized family service plan.

23 (f) In accordance with Part C, Individuals with
24 Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.),
25 a child must exhaust available coverage under this section before
26 the child may receive benefits provided by this state for early
27 childhood intervention services. This section does not reduce the

1 obligation of this state or the federal government under Part C,
2 Individuals with Disabilities Education Act (IDEA) (20 U.S.C.
3 Section 1431 et seq.).

4 SECTION 7. Section 1367.206, Insurance Code, is amended to
5 read as follows:

6 Sec. 1367.206. PROHIBITED ACTIONS. Under the coverage
7 required to be offered under this subchapter, a health benefit plan
8 issuer may not:

9 (1) except as provided by Section 1367.205(d), apply
10 the cost of rehabilitative and habilitative therapies described by
11 Section 1367.205(a) to an annual or lifetime maximum plan benefit
12 or similar provision under the plan;

13 (2) apply visits to a physician or health care
14 provider, as applicable, to receive the rehabilitative and
15 habilitative therapies described by Section 1367.205(a) to an
16 annual limit on an insured's or enrollee's number of visits to a
17 physician or provider; or

18 (3) [~~2~~] use the cost of rehabilitative or
19 habilitative therapies described by Section 1367.205(a) as the sole
20 justification for:

21 (A) increasing plan premiums; or

22 (B) terminating the insured's or enrollee's
23 participation in the plan.

24 SECTION 8. Subchapter E, Chapter 1367, Insurance Code, as
25 amended by this Act, applies only to a health benefit plan
26 delivered, issued for delivery, or renewed on or after January 1,
27 2020. A health benefit plan delivered, issued for delivery, or

1 renewed before January 1, 2020, is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 SECTION 9. This Act takes effect September 1, 2019.