

BILL ANALYSIS

Senate Research Center

S.B. 2016
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Federal law requires states to pay the premium costs attributable to state-mandated benefits applied to qualified health plans if the benefits were enacted after 2011 and they exceed the Affordable Care Act's (ACA) essential health benefits. The Texas Department of Insurance's (TDI) position is that the seven existing state-mandated benefits do not exceed the federally-mandated essential health benefits. However, to mitigate the risk of costs to the state, Texas began adding language to laws containing state-mandated benefits that would exempt qualified health plans in the event there was a federal determination that the state must pay.

The Centers for Medicare and Medicaid Services (CMS) recently indicated that a state exemption may violate federal law if it applies only to qualified health plans, while non-qualified health plans sold in the same market must provide state-mandated benefits. Current language in Texas statute does not exclude the non-qualified health plans.

Additionally, new federal rules require states to submit annual reports on state-required benefits and justify why defrayal payments are not required. If CMS disagrees with TDI's position, the language of the current exemption in state law may not adequately protect the state from additional costs.

S.B. 2016 seeks to address this issue by exempting qualified health plans and non-qualified health plans, offered in the marketplace, from compliance with the state-mandated benefits, if the state must defray the cost.

Beneficiaries of the seven existing programs may be in opposition as the bill would nullify the benefits if CMS determines the state is responsible for cost defrayal of the respective benefit.

S.B. 2016 amends current law relating to the applicability of certain provisions mandating the provision by certain health benefit plans of health benefits requiring cost defrayal by this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1425, Insurance Code, by adding Subchapter A, and adding a heading to that subchapter, to read as follows:

SUBCHAPTER A. EXCEPTED BENEFITS

SECTION 2. Transfers Sections 1425.001 (Exemption From Application of Subtitle) and 1425.002 (Specific Language Controls), Insurance Code, to Subchapter A, Chapter 1425, Insurance Code, as added by this Act.

SECTION 3. Amends Chapter 1425, Insurance Code, by adding Subchapter B, as follows:

SUBCHAPTER B. BENEFITS REQUIRING DEFRAYAL

Sec. 1425.051. DEFINITION. Defines "qualified health plan."

Sec. 1425.052. EXEMPTION FROM SUBTITLE FOR BENEFITS REQUIRING DEFRAAYAL. (a) Provides that a provision of Subtitle E (Benefits Payable Under Health Coverages) that is enacted on or after January 1, 2012, does not apply to a qualified health plan if a determination is made under 45 C.F.R. Section 155.170 that:

(1) the provision requires that the qualified health plan offer benefits in addition to the essential health benefits required under 42 U.S.C. Section 18022(b); and

(2) this state is required to make payments to defray the cost of the additional benefits mandated by the provision.

(b) Provides that if a determination described by Subsection (a) is made as to a qualified health plan, the provision to which the determination relates does not apply to a non-qualified health plan if the non-qualified health plan is offered in the same market as the qualified health plan.

SECTION 4. Effective date: upon passage or September 1, 2021.