

By: Menéndez

S.B. No. 2051

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage of prescription drugs for serious mental illnesses.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter E-2 to read as follows:

SUBCHAPTER E-2. PRESCRIPTION DRUG COVERAGE FOR SERIOUS MENTAL ILLNESSES

Sec. 1369.221. DEFINITION. In this subchapter, "serious mental illness" has the meaning assigned by Section 1355.001.

Sec. 1369.222. APPLICABILITY OF SUBCHAPTER. (a) This subchapter 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 contract or similar coverage document that is issued by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842;

(3) a health maintenance organization operating under Chapter 843;

(4) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

1 (5) a multiple employer welfare arrangement that holds
2 a certificate of authority under Chapter 846;

3 (6) a stipulated premium company operating under
4 Chapter 884;

5 (7) a fraternal benefit society operating under
6 Chapter 885;

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

8 (9) a reciprocal exchange operating under Chapter 942.

9 (b) Notwithstanding any other law, this subchapter applies
10 to:

11 (1) a small employer health benefit plan subject to
12 Chapter 1501, including coverage provided through a health group
13 cooperative under Subchapter B of that chapter;

14 (2) a standard health benefit plan issued under
15 Chapter 1507;

16 (3) a basic coverage plan under Chapter 1551;

17 (4) a basic plan under Chapter 1575;

18 (5) a primary care coverage plan under Chapter 1579;

19 (6) a plan providing basic coverage under Chapter
20 1601;

21 (7) health benefits provided by or through a church
22 benefits board under Subchapter I, Chapter 22, Business
23 Organizations Code;

24 (8) group health coverage made available by a school
25 district in accordance with Section 22.004, Education Code;

26 (9) a regional or local health care program operated
27 under Section 75.104, Health and Safety Code; and

1 (10) a self-funded health benefit plan sponsored by a
2 professional employer organization under Chapter 91, Labor Code.

3 (c) This subchapter applies to coverage under a group health
4 benefit plan provided to a resident of this state regardless of
5 whether the group policy, agreement, or contract is delivered,
6 issued for delivery, or renewed in this state.

7 Sec. 1369.223. PROHIBITED CONDUCT. (a) A health benefit
8 plan that provides coverage for a serious mental illness may not
9 require, before the health benefit plan provides coverage of a
10 prescription drug approved by the United States Food and Drug
11 Administration, that the enrollee:

12 (1) fail to successfully respond to a different drug;
13 or

14 (2) prove a history of failure of a different drug.

15 (b) This section applies only to a drug the use of which is:

16 (1) prescribed by a physician or other health care
17 provider for the serious mental illness;

18 (2) determined by the prescribing physician or health
19 care provider in consultation with the enrollee as the most
20 appropriate course of treatment for the serious mental illness; and

21 (3) approved by the United States Food and Drug
22 Administration.

23 (c) This section applies only to a drug prescribed to an
24 enrollee who is 18 years of age or older.

25 (d) This section does not affect a pharmacist's authority to
26 substitute a generic equivalent or one or more interchangeable
27 biological products under Section 562.008, Occupations Code, for a

1 prescription drug prescribed for a serious mental illness.

2 SECTION 2. This Act applies only to a health benefit plan
3 delivered, issued for delivery, or renewed on or after January 1,
4 2022. A health benefit plan delivered, issued for delivery, or
5 renewed before January 1, 2022, is governed by the law as it existed
6 immediately before the effective date of this Act, and that law is
7 continued in effect for that purpose.

8 SECTION 3. This Act takes effect September 1, 2021.