

By: Smithee

H.B. No. 1754

Substitute the following for H.B. No. 1754:

By: Oliverson

C.S.H.B. No. 1754

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of certain prescription drug information
by a health benefit plan.

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

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

SUBCHAPTER B-2. DISCLOSURE OF CERTAIN PRESCRIPTION DRUG
INFORMATION SPECIFIED BY DRUG FORMULARY

Sec. 1369.091. DEFINITIONS. In this subchapter:

(1) "Cost-sharing information" means the actual
out-of-pocket amount an enrollee is required to pay a dispensing
pharmacy or prescribing provider for a prescription drug under the
enrollee's health benefit plan.

(2) "Drug formulary," "enrollee," and "prescription
drug" have the meanings assigned by Section 1369.051.

(3) "Standard API" means an application interface that
meets the requirements of an applicable American National Standards
Institute (ANSI) accredited standard to conform to standards
adopted under 45 C.F.R. Section 170.215.

Sec. 1369.092. 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

1 agreement, a group hospital service contract, or an individual or
2 group evidence of coverage or similar coverage document that is
3 offered by:

4 (1) an insurance company;

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

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

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

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

13 (6) a stipulated premium company operating under
14 Chapter 884;

15 (7) a fraternal benefit society operating under
16 Chapter 885;

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

18 (9) an exchange operating under Chapter 942.

19 (b) Notwithstanding any other law, this subchapter applies
20 to:

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

24 (2) a standard health benefit plan issued under
25 Chapter 1507;

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

27 (4) a basic plan under Chapter 1575;

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

2 (6) a plan providing basic coverage under Chapter
3 1601;

4 (7) nonprofit agricultural organization health
5 benefits offered by a nonprofit agricultural organization under
6 Chapter 1682;

7 (8) alternative health benefit coverage offered by a
8 subsidiary of the Texas Mutual Insurance Company under Subchapter
9 M, Chapter 2054;

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

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

14 Sec. 1369.093. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

15 This subchapter does not apply to an issuer or provider of health
16 benefits under or a pharmacy benefit manager administering pharmacy
17 benefits under:

18 (1) the state Medicaid program, including the Medicaid
19 managed care program operated under Chapter 533, Government Code;

20 (2) the child health plan program under Chapter 62,
21 Health and Safety Code;

22 (3) the TRICARE military health system; or

23 (4) a workers' compensation insurance policy or other
24 form of providing medical benefits under Title 5, Labor Code.

25 Sec. 1369.094. DISCLOSURE OF PRESCRIPTION DRUG

26 INFORMATION. (a) This section applies only with respect to a
27 prescription drug covered under a health benefit plan's pharmacy

1 benefit.

2 (b) A health benefit plan issuer that covers prescription
3 drugs shall provide information regarding a covered prescription
4 drug to an enrollee or the enrollee's prescribing provider on
5 request. The information provided must include the issuer's drug
6 formulary and, for the prescription drug and any formulary
7 alternative:

8 (1) the enrollee's eligibility;

9 (2) cost-sharing information, including any
10 deductible, copayment, or coinsurance, which must:

11 (A) be consistent with cost-sharing requirements
12 under the enrollee's plan;

13 (B) be accurate at the time the cost-sharing
14 information is provided; and

15 (C) include any variance in cost-sharing based on
16 the patient's preferred dispensing retail or mail-order pharmacy or
17 the prescribing provider; and

18 (3) applicable utilization management requirements.

19 (c) In providing the information required under Subsection
20 (b), a health benefit plan issuer shall:

21 (1) respond in real time to a request made through a
22 standard API;

23 (2) allow the use of an integrated technology or
24 service as necessary to provide the required information;

25 (3) ensure that the information provided is current no
26 later than one business day after the date a change is made; and

27 (4) provide the information if the request is made

1 using the drug's unique billing code and National Drug Code.

2 (d) A health benefit plan issuer may not:

3 (1) deny or delay a response to a request for
4 information under Subsection (b) for the purpose of blocking the
5 release of the information;

6 (2) restrict a prescribing provider from
7 communicating to the enrollee the information provided under
8 Subsection (b), information about the cash price of the drug, or any
9 additional information on any lower cost or clinically appropriate
10 alternative drug, whether or not the drug is covered under the
11 enrollee's plan;

12 (3) except as required by law, interfere with,
13 prevent, or materially discourage access to or the exchange or use
14 of the information provided under Subsection (b), including by:

15 (A) charging a fee to access the information;

16 (B) not responding to a request within the time
17 required by this section; or

18 (C) instituting a consent requirement for an
19 enrollee to access the information; or

20 (4) penalize, including by taking any action intended
21 to punish or discourage future similar behavior by the prescribing
22 provider, a prescribing provider for:

23 (A) disclosing the information provided under
24 Subsection (b); or

25 (B) prescribing, administering, or ordering a
26 lower cost or clinically appropriate alternative drug.

27 (e) A health benefit plan issuer with fewer than 10,000

1 enrollees may:

2 (1) register with the department to receive an
3 additional 12 months after the effective date of this subchapter to
4 comply with the requirements of this subchapter; and

5 (2) after the additional 12 months provided for in
6 Subdivision (1), request from the department a temporary exception
7 from one or more requirements of this section by submitting a report
8 to the department that demonstrates that compliance would impose an
9 unreasonable cost relative to the public value that would be gained
10 from full compliance.

11 SECTION 2. The changes in law made by this Act apply only to
12 a health benefit plan delivered, issued for delivery, or renewed on
13 or after January 1, 2025.

14 SECTION 3. This Act takes effect September 1, 2023.