

By: Bucy

H.B. No. 5230

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage of prescription drugs for serious mental illnesses and opioid and substance use disorders.

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 evidence of coverage 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

1 holds a certificate of authority under Chapter 844;

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

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

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

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

9 (9) an exchange operating under Chapter 942.

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

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

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

17 (3) health benefits provided by or through a church  
18 benefits board under Subchapter I, Chapter 22, Business  
19 Organizations Code;

20 (4) a regional or local health care program operated  
21 under Section 75.104, Health and Safety Code; and

22 (5) a self-funded health benefit plan sponsored by a  
23 professional employer organization under Chapter 91, Labor Code.

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

1       Sec. 1369.223. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

2       This subchapter does not apply to an issuer or provider of health  
3       benefits under or a pharmacy benefit manager administering pharmacy  
4       benefits under:

5               (1) the state Medicaid program, including the Medicaid  
6       managed care program under Chapter 533, Government Code; or

7               (2) the child health plan program under Chapter 62,  
8       Health and Safety Code.

9       Sec. 1369.224. PROHIBITED CONDUCT. (a) A health benefit  
10       plan that provides coverage for a serious mental illness may not  
11       require, before the health benefit plan provides coverage of a  
12       prescription drug approved by the United States Food and Drug  
13       Administration, that the enrollee:

14               (1) fail to successfully respond to a different drug;  
15       or

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

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

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

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

23               (3) approved by the United States Food and Drug  
24       Administration.

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

27       (d) This section does not affect a pharmacist's authority to

1 substitute a generic equivalent or one or more interchangeable  
2 biological products under Section 562.008, Occupations Code, for a  
3 prescription drug prescribed for a serious mental illness.

4 SECTION 2. Chapter 1369, Insurance Code, is amended by  
5 adding Subchapter E-3 to read as follows:

6 SUBCHAPTER E-3. COVERAGE OF MEDICATION-ASSISTED TREATMENT FOR  
7 OPIOID OR SUBSTANCE USE DISORDER

8 Sec. 1369.231. DEFINITION. In this subchapter,  
9 "medication-assisted opioid or substance use disorder treatment"  
10 means the use of methadone, buprenorphine, oral  
11 buprenorphine/naloxone, or naltrexone to treat opioid or substance  
12 use disorder.

13 Sec. 1369.232. APPLICABILITY OF SUBCHAPTER. (a) This  
14 subchapter applies only to a health benefit plan that provides  
15 benefits for medical or surgical expenses incurred as a result of a  
16 health condition, accident, or sickness, including an individual,  
17 group, blanket, or franchise insurance policy or insurance  
18 agreement, a group hospital service contract, or an individual or  
19 group evidence of coverage or similar coverage document that is  
20 issued by:

21 (1) an insurance company;  
22 (2) a group hospital service corporation operating  
23 under Chapter 842;

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

26 (4) an approved nonprofit health corporation that  
27 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) an 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) nonprofit agricultural organization health  
17 benefits offered by a nonprofit agricultural organization under  
18 Chapter 1682;

19           (4) alternative health benefit coverage offered by a  
20 subsidiary of the Texas Mutual Insurance Company under Subchapter  
21 M, Chapter 2054;

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

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

27           (7) a self-funded health benefit plan sponsored by a

1 professional employer organization under Chapter 91, Labor Code.

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

6 Sec. 1369.233. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

7 This subchapter does not apply to an issuer or provider of health  
8 benefits under or a pharmacy benefit manager administering pharmacy  
9 benefits under:

10 (1) the state Medicaid program, including the Medicaid  
11 managed care program under Chapter 533, Government Code; or

12 (2) the child health plan program under Chapter 62,  
13 Health and Safety Code.

14 Sec. 1369.234. LIMITATIONS ON PRIOR AUTHORIZATION. A  
15 health benefit plan that provides coverage for medication-assisted  
16 opioid or substance use disorder treatment may not require an  
17 enrollee to obtain prior authorization for the treatment, except as  
18 needed to minimize the opportunity for fraud, waste, and abuse.

19 SECTION 3. Section 32.03115(e), Human Resources Code, is  
20 repealed.

21 SECTION 4. This Act applies only to a health benefit plan  
22 delivered, issued for delivery, or renewed on or after January 1,  
23 2024. A health benefit plan delivered, issued for delivery, or  
24 renewed before January 1, 2024, is governed by the law as it existed  
25 immediately before the effective date of this Act, and that law is  
26 continued in effect for that purpose.

27 SECTION 5. This Act takes effect September 1, 2023.