

By: Menéndez

S.B. No. 457

A BILL TO BE ENTITLED

AN ACT

relating to disclosure requirements for health benefit plans and health expense arrangements marketed to individuals.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1223 to read as follows:

CHAPTER 1223. MANDATORY DISCLOSURES FOR CERTAIN HEALTH BENEFIT PLANS AND HEALTH EXPENSE ARRANGEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1223.001. DEFINITION. In this chapter, "issuer" means a person who markets, sells, issues, or operates a health benefit plan or health expense arrangement governed by this chapter.

Sec. 1223.002. APPLICABILITY. Except as provided by Section 1223.003 but notwithstanding any other law, this chapter applies to a health benefit plan or health expense arrangement marketed to an individual to provide health benefit coverage or pay for health care expenses, including:

(1) an individual accident and health insurance policy governed by Chapter 1201;

(2) a group accident and health insurance policy governed by Chapter 1251 that is marketed to an individual;

(3) individual health maintenance organization coverage;

(4) a health care sharing ministry operated under

1 Chapter 1681;

2 (5) a discount health care program governed by Chapter
3 7001;

4 (6) a direct primary care arrangement governed by
5 Subchapter F, Chapter 162, Occupations Code; or

6 (7) any other plan or arrangement the commissioner
7 determines is or could be marketed to an individual as an
8 alternative or supplement to an employer-provided health benefit
9 plan or health benefit plan coverage regulated under the Patient
10 Protection and Affordable Care Act (Pub. L. No. 111-148).

11 Sec. 1223.003. EXCEPTION. This chapter does not apply to a
12 health benefit plan or health expense arrangement if:

13 (1) the issuer is required to submit a summary of
14 benefits and coverage for the plan or arrangement to the United
15 States secretary of health and human services under 42 U.S.C.
16 Section 300gg-15; or

17 (2) the issuer is required to provide a disclosure
18 form for the plan or arrangement under Section 1509.002.

19 Sec. 1223.004. RULES. The commissioner may adopt rules
20 necessary to implement this chapter.

21 SUBCHAPTER B. DISCLOSURE REQUIRED

22 Sec. 1223.051. DISCLOSURE FORM TEMPLATE. (a) The
23 commissioner by rule shall prescribe a disclosure form template for
24 each type of health benefit plan or health expense arrangement to
25 which this chapter applies.

26 (b) The commissioner shall ensure that the disclosure form
27 template is presented in plain language and in a standardized

1 format designed to facilitate consumer understanding.

2 (c) The commissioner may prescribe as many disclosure form
3 templates as necessary to account for each type of health benefit
4 plan or health expense arrangement.

5 (d) Except as provided by Subsection (e), the disclosure
6 form template must include the following information that is
7 tailored to the type of health benefit plan or health expense
8 arrangement described by the template:

9 (1) a statement:

10 (A) of whether the plan or arrangement is
11 insurance; and

12 (B) of what, if any, guarantees are made of
13 payment for health care services;

14 (2) the duration of coverage;

15 (3) a statement:

16 (A) of whether:

17 (i) the plan or arrangement may be renewed
18 at the option of the enrollee or participant with no new
19 underwriting;

20 (ii) the plan or arrangement is only able to
21 be renewed at the option of the issuer after underwriting; or

22 (iii) the plan or arrangement may not be
23 renewed;

24 (B) of whether, on renewal, the issuer is able
25 to:

26 (i) increase the premium or assess a direct
27 fee, contribution, or similar cost; or

1 (ii) make changes to the plan or
2 arrangement terms, including benefits and limits, based on an
3 individual's health status;

4 (C) that the expiration of the plan or
5 arrangement is not a qualifying life event that would make a person
6 eligible for a special enrollment period, if applicable; and

7 (D) that the plan or arrangement may expire
8 outside of the open enrollment period under the Patient Protection
9 and Affordable Care Act (Pub. L. No. 111-148);

10 (4) to the extent the information is available, the
11 dates of the next three open enrollment periods under the Patient
12 Protection and Affordable Care Act (Pub. L. No. 111-148) following
13 the date the plan or arrangement expires;

14 (5) whether the plan or arrangement contains any
15 limitations or exclusions to preexisting conditions;

16 (6) the maximum dollar amount payable under the plan
17 or arrangement;

18 (7) the deductibles under the plan or arrangement and
19 the health care services to which the deductibles apply;

20 (8) whether the following health care services are
21 covered and any limits to the coverage:

22 (A) prescription drugs;

23 (B) mental health services;

24 (C) substance abuse treatment;

25 (D) maternity care;

26 (E) hospitalization;

27 (F) surgery;

1 (G) emergency health care; and

2 (H) preventive health care;

3 (9) for a plan or arrangement other than a
4 traditional, major medical health benefit plan, information on
5 unique aspects of the plan or arrangement and how it differs from
6 traditional, major medical coverage that the commissioner
7 determines is important to facilitate consumer understanding; and

8 (10) any other information the commissioner
9 determines is important for a purchaser of or participant in a plan
10 or arrangement.

11 (e) The commissioner may omit information described by
12 Subsection (d) in a disclosure form template if the information is
13 inapplicable to the type of plan or arrangement for which the
14 template is prescribed.

15 Sec. 1223.052. DISCLOSURE FORM REVIEW. (a) Before an
16 issuer may sell, market, or provide a health benefit plan or health
17 expense arrangement to a consumer, the issuer shall submit to the
18 department for approval in the manner prescribed by commissioner
19 rule a disclosure form for each plan or arrangement offered by the
20 issuer.

21 (b) Except as provided by Subsection (c), the disclosure
22 form must use the disclosure form template prescribed by the
23 commissioner under Section 1223.051 for the health benefit plan or
24 health expense arrangement described by the form.

25 (c) An issuer may modify the disclosure form template for a
26 health benefit plan or health expense arrangement that is not able
27 to be accurately represented by the template. If the issuer

1 modifies the template, the issuer shall clearly identify any
2 changes made and explain the reason for those changes when the
3 issuer submits the form for approval under Subsection (a).

4 (d) The department shall approve a disclosure form if the
5 form uses the appropriate disclosure form template and accurately
6 describes the health benefit plan or health expense arrangement in
7 a manner that is easily understandable to a consumer.

8 Sec. 1223.053. DISCLOSURE TO CONSUMER. (a) An issuer shall
9 provide to a consumer the disclosure form approved under Section
10 1223.052:

11 (1) before the earliest of the time that the consumer
12 completes an application, makes an initial premium payment, or
13 makes any other payment in connection with coverage under or
14 participation in the health benefit plan or health expense
15 arrangement; and

16 (2) at the time the policy, certificate, or
17 arrangement is issued or entered into.

18 (b) An issuer shall ensure that a consumer signs the
19 disclosure form before the issuer accepts an application or
20 payment for or issues or enters into the health benefit plan or
21 health expense arrangement. An electronic signature must comply
22 with Chapter 35 and rules adopted under this chapter.

23 Sec. 1223.054. RETENTION. An issuer shall retain a signed
24 disclosure form until the fifth anniversary of the date the issuer
25 receives the form, and the issuer shall make the form available to
26 the department on request.

27 Sec. 1223.055. HEALTH CARE SHARING MINISTRIES. The

1 commissioner shall consult with the attorney general in prescribing
2 the disclosure form template applicable to a health care sharing
3 ministry, and the template must incorporate the notice described by
4 Section 1681.002.

5 Sec. 1223.056. DIRECT PRIMARY CARE ARRANGEMENTS. The
6 commissioner shall consult with the Texas Medical Board in
7 prescribing the disclosure form template applicable to a direct
8 primary care arrangement, and the template must incorporate the
9 disclosure required by Section 162.256, Occupations Code.

10 Sec. 1223.057. ENFORCEMENT. The department may take an
11 enforcement action under Subtitle B, Title 2, against an issuer
12 that violates this chapter.

13 SECTION 2. Not later than January 1, 2024, the commissioner
14 of insurance shall adopt rules necessary to implement Chapter 1223,
15 Insurance Code, as added by this Act.

16 SECTION 3. Chapter 1223, Insurance Code, as added by this
17 Act, applies only to a health benefit plan or health expense
18 arrangement delivered, issued for delivery, entered into, or
19 renewed on or after January 1, 2024.

20 SECTION 4. This Act takes effect September 1, 2023.