

BILL ANALYSIS

Senate Research Center

H.B. 1212
By: Averitt (Sibley)
Economic Development
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Engrossed

DIGEST

Recently, 104th Congress enacted the Health Insurance Portability and Accountability Act to provide portability and greater availability to health insurance in the group and individual markets. In order for state regulation of health benefit plans to not be preempted by federal law, the legislature must make necessary changes to enact federal health reforms. This bill would change the Small Employer Health Insurance Availability Act to the Health Insurance Portability and Availability Act and include provisions for large employer health benefit plans. Additionally, this bill includes provisions regarding certification and disclosure of coverage, and additional requirements for multiple employer welfare arrangements.

PURPOSE

As proposed, H.B. 1212 changes the Small Employer Health Insurance Availability Act to the Health Insurance Portability and Availability Act and includes provisions for large employer health benefit plans. This bill also includes provisions regarding certification and disclosure of coverage, and additional requirements for multiple employer welfare arrangements.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of insurance in SECTION 1.04 (Article 26.04, Insurance Code), SECTION 3.01 (Article 21.52G(5), Insurance Code), and SECTION 4.05 (Article 3.95-15, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Article 26.01, Insurance Code, to authorized this chapter to be cited as the Health Insurance Portability and Availability Act.

SECTION 1.02. Amends Article 26.02, Insurance Code, to define "affiliation period," "creditable coverage," "health status related factor," "large employer," "large employer carrier," "large employer health benefit plan," "participation criteria," "point-of-service contract," and "waiting period." Redefines "case characteristics," "dependent," "eligible employee," "health benefit plan," "late enrollee," "person," "premium," and "small employer." Deletes the definition of "affiliated employer" and "point-of-service contract."

SECTION 1.03. Amends Chapter 26A, Insurance Code, by adding Articles 26.035 and 26.036, as follows:

Art. 26.035. CREDITABLE COVERAGE. Provides that an individual's coverage is creditable if certain provisions are met. Provides what creditable coverage does not include.

Art. 26.036. SCHOOL DISTRICT ELECTION. Authorizes an independent school district to participate in the small employer market without regard to the number of eligible employees. Provides that an independent school district that elects to participate in the small employer market is treated as a small employer under this chapter.

SECTION 1.04. Amends Article 26.04, Insurance Code, to require the commissioner of insurance (commissioner) to adopt rules necessary to meet minimum requirements of federal law and

regulations.

SECTION 1.05. Amends Article 26.06, Insurance Code, to provide that an individual or group health plan is subject to Subchapters C-G of this chapter if it provides health care benefits covering two, rather than three, eligible employees of a small employer if certain conditions are met. Sets forth requirements determination of a small employer. Makes conforming changes.

SECTION 1.06. Amends Articles 26.14(a) and (d), Insurance Code, to make conforming changes.

SECTION 1.07. Amends Articles 26.15(a) and (b), Insurance Code, to make conforming changes.

SECTION 1.08. Amends Articles 26.21(a), (h), (k), and (n), Insurance Code, to require each small employer carrier to provide small employer health benefit plans without regard to health status related factors, rather than claim experience or medical history. Sets forth enrollment periods and the period during which a preexisting condition provision is imposed. Deletes existing Subdivision (1).

SECTION 1.09. Amends Chapter 26C, Insurance Code, by adding Article 26.21A, as follows:

Art. 26.21A. COVERAGE FOR ADOPTED CHILDREN. Sets forth requirements for coverage for adopted children.

SECTION 1.10. Amends Articles 26.22(a) and (e), Insurance Code, to set forth requirements for not requiring a small employer carrier to offer or issue the small employer health benefit plans. Makes conforming changes.

SECTION 1.11. Amends Articles 26.23(a) and (b), Insurance Code, to require a small employer carrier to renew the small employer health benefit plan, unless no enrollee in connection with the plan resides in the service area or membership of an employer in an association terminates. Authorizes a small employer carrier to refuse coverage for intentional misrepresentation. Makes nonsubstantive changes.

SECTION 1.12. Amends Article 26.24, Insurance Code, by amending Subsection (a) and adding Subsection (d), to make nonsubstantive changes. Authorizes a small employer carrier to elect to discontinue a particular type of coverage if certain provisions are met.

SECTION 1.13. Amends Article 26.25, Insurance Code, to set forth notice requirements.

SECTION 1.14. Amends Article 26.33, Insurance Code, by adding Subsection (d), to set forth the establishment of premium discounts, rebates, or certain reductions.

SECTION 1.15. Amends Article 26.40, Insurance Code, to sets forth requirements on dissemination of information.

SECTION 1.16. Amends Article 26.49, Insurance Code, to prohibit a preexisting provision from applying during six months before the earlier of the first day of the waiting period or the effective date of coverage. Sets forth certain conditions the small employer carrier will not treat. Prohibits a preexisting condition provision from applying to an individual who was continuously covered for an aggregate, rather than a minimum period of 12 months under creditable coverage, rather than by a health benefit plan that was in effect up to a date not more than 63, rather than 60 days before the effective date of the coverage. Sets forth requirements for an affiliation plan. Deletes Subsection (e). Deletes existing text regarding a 90-day waiting period. Makes conforming and nonsubstantive changes.

SECTION 1.17. Amends Chapter 26, Insurance Code, to provide new headings for Subchapters C-G, as follows:

SUBCHAPTER C. New heading: GUARANTEED ISSUE AND RENEWABILITY OF SMALL EMPLOYER HEALTH BENEFIT PLANS

SUBCHAPTER D. New heading: UNDERWRITING AND RATING OF SMALL EMPLOYER HEALTH BENEFIT PLANS

SUBCHAPTER E. New heading: COVERAGE UNDER SMALL EMPLOYER HEALTH BENEFIT PLANS

SUBCHAPTER F. New heading: REINSURANCE FOR SMALL EMPLOYER HEALTH BENEFIT PLANS

SUBCHAPTER G. New heading: MARKETING OF SMALL EMPLOYER HEALTH BENEFIT PLANS

SECTION 2.01. Amends Chapter 26, Insurance Code, by adding Subchapter H, as follows:

SUBCHAPTER H. LARGE EMPLOYER HEALTH BENEFIT PLANS

Art. 26.81. APPLICABILITY. Sets forth applicability of this subchapter.

Art. 26.82. CERTIFICATION. Set forth dates for certifying to the commissioner if a health carrier is offering a health benefit plan.

Art. 26.83. COVERAGE REQUIREMENTS. Sets forth requirements for coverage.

Art. 26.84. DEPENDENT CHILDREN. Sets forth requirements for coverage for dependent children.

Art. 26.85. GEOGRAPHIC SERVICE AREA. Sets forth requirements for offering or issuing a large employer health benefit plan in certain geographic service areas.

Art. 26.86. RENEWABILITY OF COVERAGE; CANCELLATION. Sets forth requirements for renewing and cancelling a large employer health benefit plan.

Art. 26.87. REFUSAL TO RENEW. Sets forth requirements and procedures for refusing to renew a large employer health benefit plan.

Art. 26.88. NOTICE TO COVERED PERSONS. Sets forth notice requirements regarding termination of coverage.

Art. 26.89. PREMIUM RATES, ADJUSTMENTS. Sets forth requirements for charging an adjustment to premium rates and setting premium rates.

Art. 26.90. PREEXISTING CONDITION PROVISIONS. Sets forth requirements for preexisting conditions.

Art. 26.91. FAIR MARKETING. Sets forth requirements for marketing health benefit plans.

Art. 26.92. HEALTH STATUS AND CLAIMS EXPERIENCE; PROHIBITED ACTS. Prohibits a large employer carrier or agent from encouraging a large employer to exclude certain employees in connection with the employee's employment.

Art. 26.93. AGENTS. Prohibits a large employer carrier from terminating, failing to renew, or limiting its contract with an agent.

Art. 26.94. WRITTEN STATEMENT OF DENIAL, CANCELLATION, OR REFUSAL TO RENEW. Provides that denial of coverage, cancellation or refusal to renew must be in writing.

Art. 26.95. THIRD-PARTY ADMINISTRATOR. Sets forth requirements for entering into an agreement with a third-party administrator.

SECTION 3.01. Amends Chapter 21E, Insurance Code, by adding Article 21.52G, as follows:

Art. 21.52G. CERTIFICATION AND DISCLOSURE OF COVERAGE UNDER HEALTH BENEFIT PLAN

Sec. 1. DEFINITIONS. Defines "creditable coverage" and "health benefit plan."

Sec. 2. HEALTH BENEFIT PLAN. Provides that this article applies to certain health benefit plans.

Sec. 3. CREDITABLE COVERAGE. Provides that an individual's coverage is creditable if certain provisions are met.

Sec. 4. CERTIFICATION OF COVERAGE. Requires each issuer of a health benefit plan to provide a certification of coverage.

Sec. 5. RULES. Require the commissioner to adopt rules to implement this article and meet minimum requirements of federal law and regulations.

SECTION 4.01. Amends Article 3.95-1, Insurance Code, to redefine "board." Defines "creditable coverage," "health benefit plan," "health status related factor," "late-participating employee," "participation criteria," "preexisting condition provision," and "waiting period."

SECTION 4.02. Amends Chapter 3I, Insurance Code, by adding Articles 3.95-1.5 through 3.95-1.7, as follows:

Art. 3.95-1.5. CREDITABLE COVERAGE. Provides that an individual's coverage is creditable if certain provisions are met.

Art. 3.95-1.6. HEALTH BENEFIT PLAN. Defines "health benefit plan."

Art. 3.95-1.7. LATE-PARTICIPATING EMPLOYEE. Sets forth the requirements to be considered a late-participating employee.

SECTION 4.03. Amends Chapter 3I, Insurance Code, by adding Articles 3.95-4.1 through 3.95-4.10, as follows:

Art. 3.95-4.1. COVERAGE REQUIREMENTS. Sets forth coverage requirements regarding coverage by a multiple employer welfare arrangement.

Art. 3.95-4.2. DEPENDENT CHILDREN. Sets forth requirements for coverage for dependent children by a multiple employer welfare arrangement.

Art. 3.95-4.3. RENEWABILITY OF COVERAGE; CANCELLATION. Sets forth requirements for renewing or cancelling coverage by a multiple employer welfare arrangement.

Art. 3.95-4.4. REFUSAL TO RENEW. Sets forth requirements and procedures for refusal to renew.

Art. 3.95-4.5. NOTICE TO COVERED PERSONS. Sets forth notice requirements regarding termination of coverage.

Art. 3.95-4.6. PREMIUM RATES, ADJUSTMENTS. Sets forth requirements for charging an adjustment to premium rates and setting premium rates.

Art. 3.95-4.7. FAIR MARKETING. Sets forth requirements for marketing health benefit plans.

Art. 3.95-4.8. **PREEXISTING CONDITION PROVISIONS.** Sets forth requirements for preexisting conditions.

Art 3.95-4.9. **WRITTEN STATEMENT OF DENIAL, CANCELLATION, OR REFUSAL TO RENEW.** Provides that denial of coverage, cancellation or refusal to renew must be in writing.

Art. 3.95-4.10. **THIRD-PARTY ADMINISTRATOR.** Sets forth requirements for entering into an agreement with a third-party administrator.

SECTION 4.04. Amends Article 3.95-8, Insurance Code, by amending Subsection (a) and adding Subsection (e), to require each multiple employer welfare arrangement transacting business in this state to file any modified terms of a plan document along with certification from trustees that any changes are in compliance with the minimum requirements of this chapter. Sets forth powers of the commissioner with regard to a multiple employer welfare arrangement that does not comply with the requirements of this subchapter.

SECTION 4.05. Amends Article 3.95-15, Insurance Code, as follows:

Art. 3.95-15. New heading: **PROCEEDINGS BEFORE COMMISSIONER OF INSURANCE; RULES.** Require the commissioner to adopt rules to meet minimum requirements of federal law and regulations. Makes a conforming change.

SECTION 5.01. Makes application of this Act prospective.

SECTION 5.02. Effective date: July 1, 1997.

SECTION 5.03. Emergency clause.