

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 1405  
By: Smithee et al. (Deuell)  
State Affairs  
5/2/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 1405 amends current law relating to provision by a health benefit plan of prescription drug coverage specified by formulary and to modifications of that coverage.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1369.051(2), Insurance Code, to define "enrollee" as an individual who is covered under a health benefit plan, including a covered dependent, rather than an individual who is covered under a group health benefit plan.

SECTION 2. Amends Section 1369.052, Insurance Code, as follows:

Sec. 1369.052. **APPLICABILITY OF SUBCHAPTER.** Provides that 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 a small or large employer group contract or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842 (Group Hospital Service Corporations);
- (3) a fraternal benefit society operating under Chapter 885 (Fraternal Benefit Societies);
- (4) a stipulated premium company operating under Chapter 884 (Stipulated Premium Insurance Companies);
- (5) a reciprocal exchange operating under Chapter 942 (Reciprocal and Interinsurance Exchanges);
- (6) a health maintenance organization operating under Chapter 843 (Health Maintenance Organizations);
- (7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846 (Multiple Employer Welfare Arrangements); or
- (8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844 (Certification of Certain Nonprofit Health Corporations).

Makes a conforming and a nonsubstantive change.

SECTION 3. Amends Section 1369.053, Insurance Code, as follows:

Sec. 1369.053. EXCEPTION. Provides that this subchapter does not apply to:

- (1) a health benefit plan that provides coverage:
  - (A) only for a specified disease or for another single benefit;
  - (B) only for accidental death or dismemberment;
  - (C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
  - (D) as a supplement to a liability insurance policy;
  - (E) for credit insurance;
  - (F) only for dental or vision care;
  - (G) only for hospital expenses; or
  - (H) only for indemnity for hospital confinement;
- (2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended, rather than a small employer health benefit plan written under Chapter 1501 (Health Insurance Portability and Availability Act);
- (3) a workers' compensation insurance policy;
- (4) medical payment insurance coverage provided under a motor vehicle insurance policy;
- (5) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner of insurance determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1369.052;
- (6) the child health plan program under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, or the health benefits plan for children under Chapter 63 (Health Benefits Plan for Certain Children), Health and Safety Code; or
- (7) a Medicaid managed care program operated under Chapter 533 (Public Disclosure), Government Code, or a Medicaid program operated under Chapter 32 (Medical Assistance Program), Human Resources Code.

Makes nonsubstantive changes.

SECTION 4. Amends Section 1369.054, Insurance Code, to make a conforming change.

SECTION 5. Amends Subchapter B, Chapter 1369, Insurance Code, by adding Section 1369.0541, as follows:

Sec. 1369.0541. MODIFICATION OF DRUG COVERAGE UNDER PLAN. (a) Authorizes a health benefit plan issuer to modify drug coverage provided under a health benefit plan if:

- (1) the modification occurs at the time of coverage renewal;

(2) the modification is effective uniformly among all group health benefit plan sponsors covered by identical or substantially identical health benefit plans or all individuals covered by identical or substantially identical individual health benefit plans, as applicable; and

(3) not later than the 60th day before the date the modification is effective, the issuer provides written notice of the modification to the commissioner, each affected group health benefit plan sponsor, each affected enrollee in an affected group health benefit plan, and each affected individual health benefit plan holder.

(b) Provides that modifications affecting drug coverage that require notice under Subsection (a) include:

(1) renewing a drug from a formulary;

(2) adding a requirement that an enrollee receive prior authorization for a drug;

(3) imposing or altering a quantity limit for a drug;

(4) imposing a step-therapy restriction for a drug; and

(5) moving a drug to a higher cost-sharing tier unless a generic drug alternative to the drug is available.

(c) Authorizes a health benefit plan issuer to elect to offer an enrollee in the plan the option of receiving notifications required by this section by e-mail.

SECTION 6. Amends Section 1369.055, Insurance Code, to make conforming changes.

SECTION 7. Amends Section 1369.056(a), Insurance Code, to make conforming changes.

SECTION 8. Amends Section 1501.108(d), Insurance Code, to authorize a small or large employer health benefit plan issuer, notwithstanding Subsection (a) (relating to late enrollment in a small or large employer's health benefit plan), to modify a small or large employer health benefit plan in accordance with Section 1369.0541 or if the modification occurs at the time of coverage renewal, the modification is effective uniformly among all small or large employers covered by that health benefit plan, and the issuer notifies the commissioner and each affected covered small or large employer of the modification not later than the 60th day before the date the modification is effective.

SECTION 9. Makes application of this Act prospective to January 1, 2012.

SECTION 10. Effective date: September 1, 2011.