

AN ACT

relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.

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

SECTION 1. Section 1352.001, Insurance Code, is amended to read as follows:

Sec. 1352.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan, including, subject to this chapter, a small employer health benefit plan written under Chapter 1501, 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 offered by:

(1) an insurance company;

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

(3) a fraternal benefit society operating under Chapter 885;

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

(5) a reciprocal exchange operating under Chapter 942;

- 1 (6) a Lloyd's plan operating under Chapter 941;
2 (7) a health maintenance organization operating under
3 Chapter 843;
4 (8) a multiple employer welfare arrangement that holds
5 a certificate of authority under Chapter 846; or
6 (9) an approved nonprofit health corporation that
7 holds a certificate of authority under Chapter 844.

8 (b) Notwithstanding any provision in Chapter 1575, 1579, or
9 1601 or any other law, this chapter applies to:

- 10 (1) a basic plan under Chapter 1575;
11 (2) a primary care coverage plan under Chapter 1579;
12 and
13 (3) basic coverage under Chapter 1601.

14 SECTION 2. Section 1352.003, Insurance Code, is amended to
15 read as follows:

16 Sec. 1352.003. REQUIRED COVERAGES--HEALTH BENEFIT PLANS
17 OTHER THAN SMALL EMPLOYER HEALTH BENEFIT PLANS [~~EXCLUSION OF~~
18 ~~COVERAGE PROHIBITED~~]. (a) A health benefit plan must include [~~may~~
19 ~~not exclude~~] coverage for cognitive rehabilitation therapy,
20 cognitive communication therapy, neurocognitive therapy and
21 rehabilitation, neurobehavioral, neurophysiological,
22 neuropsychological, and [~~or~~] psychophysiological testing and [~~or~~]
23 treatment, neurofeedback therapy, and remediation required for and
24 related to treatment of an acquired brain injury.

25 (b) A health benefit plan must include coverage for [7]
26 post-acute transition services, [~~or~~] community reintegration
27 services, including outpatient day treatment services, or other

1 post-acute care treatment services necessary as a result of and
2 related to an acquired brain injury.

3 (c) A health benefit plan may not include, in any lifetime
4 limitation on the number of days of acute care treatment covered
5 under the plan, any post-acute care treatment covered under the
6 plan. Any limitation imposed under the plan on days of post-acute
7 care treatment must be separately stated in the plan.

8 (d) Except as provided by Subsection (c), a health benefit
9 plan must include the same payment limitations, deductibles,
10 copayments, and coinsurance factors for coverage [~~(b) Coverage~~]
11 required under this chapter as [~~may be subject to deductibles,~~
12 ~~copayments, coinsurance, or annual or maximum payment limits that~~
13 ~~are consistent with the deductibles, copayments, coinsurance, or~~
14 ~~annual or maximum payment limits] applicable to other similar
15 coverage provided under the health benefit plan.~~

16 (e) To ensure that appropriate post-acute care treatment is
17 provided, a health benefit plan must include coverage for
18 reasonable expenses related to periodic reevaluation of the care of
19 an individual covered under the plan who:

- 20 (1) has incurred an acquired brain injury;
21 (2) has been unresponsive to treatment; and
22 (3) becomes responsive to treatment at a later date.

23 (f) A determination of whether expenses, as described by
24 Subsection (e), are reasonable may include consideration of factors
25 including:

- 26 (1) cost;
27 (2) the time that has expired since the previous

1 evaluation;

2 (3) any difference in the expertise of the physician
3 or practitioner performing the evaluation;

4 (4) changes in technology; and

5 (5) advances in medicine.

6 (g) [~~e~~] The commissioner shall adopt rules as necessary
7 to implement this chapter [~~section~~].

8 (h) This section does not apply to a small employer health
9 benefit plan.

10 SECTION 3. Chapter 1352, Insurance Code, is amended by
11 adding Section 1352.0035 to read as follows:

12 Sec. 1352.0035. REQUIRED COVERAGES--SMALL EMPLOYER HEALTH
13 BENEFIT PLANS. (a) A small employer health benefit plan may not
14 exclude coverage for cognitive rehabilitation therapy, cognitive
15 communication therapy, neurocognitive therapy and rehabilitation,
16 neurobehavioral, neurophysiological, neuropsychological, or
17 psychophysiological testing or treatment, neurofeedback therapy,
18 remediation, post-acute transition services, or community
19 reintegration services necessary as a result of and related to an
20 acquired brain injury.

21 (b) Coverage required under this section may be subject to
22 deductibles, copayments, coinsurance, or annual or maximum payment
23 limits that are consistent with the deductibles, copayments,
24 coinsurance, or annual or maximum payment limits applicable to
25 other similar coverage provided under the small employer health
26 benefit plan.

27 (c) The commissioner shall adopt rules as necessary to

1 implement this section.

2 SECTION 4. Section 1352.004(b), Insurance Code, is amended
3 to read as follows:

4 (b) The commissioner by rule shall require a health benefit
5 plan issuer to provide adequate training to personnel responsible
6 for preauthorization of coverage or utilization review under the
7 plan. The purpose of the training is to prevent denial of coverage
8 in violation of Section 1352.003 and to avoid confusion of medical
9 benefits with mental health benefits. The commissioner, in
10 consultation with the Texas Traumatic Brain Injury Advisory
11 Council, shall prescribe by rule the basic requirements for the
12 training described by this subsection.

13 SECTION 5. Chapter 1352, Insurance Code, is amended by
14 adding Sections 1352.005, 1352.006, 1352.007, and 1352.008 to read
15 as follows:

16 Sec. 1352.005. NOTICE TO INSURED AND ENROLLEES. (a) A
17 health benefit plan issuer subject to this chapter, other than a
18 small employer health benefit plan issuer, must annually notify
19 each insured or enrollee under the plan in writing about the
20 coverages described by Section 1352.003.

21 (b) The commissioner, in consultation with the Texas
22 Traumatic Brain Injury Advisory Council, shall prescribe by rule
23 the specific contents and wording of the notice required under this
24 section.

25 (c) The notice required under this section must include:

26 (1) a description of the benefits listed under Section
27 1352.003;

1 (2) a statement that the fact that an acquired brain
2 injury does not result in hospitalization or receipt of a specific
3 treatment or service described by Section 1352.003 for acute care
4 treatment does not affect the right of the insured or enrollee to
5 receive benefits described by Section 1352.003 commensurate with
6 the condition of the insured or enrollee; and

7 (3) a statement of the fact that benefits described by
8 Section 1352.003 may be provided in a facility listed in Section
9 1352.007.

10 Sec. 1352.006. DETERMINATION OF MEDICAL NECESSITY;
11 EXTENSION OF COVERAGE. (a) In this section, "utilization review"
12 has the meaning assigned by Section 4201.002.

13 (b) Notwithstanding Chapter 4201 or any other law relating
14 to the determination of medical necessity under this code, a health
15 benefit plan shall respond to a person requesting utilization
16 review or appealing for an extension of coverage based on an
17 allegation of medical necessity not later than three business days
18 after the date on which the person makes the request or submits the
19 appeal. The person must make the request or submit the appeal in
20 the manner prescribed by the terms of the plan's health insurance
21 policy or agreement, contract, evidence of coverage, or similar
22 coverage document. To comply with the requirements of this
23 section, the health benefit plan issuer must respond through a
24 direct telephone contact made by a representative of the issuer.
25 This subsection does not apply to a small employer health benefit
26 plan.

27 Sec. 1352.007. TREATMENT FACILITIES. (a) A health benefit

1 plan may not deny coverage under this chapter based solely on the
2 fact that the treatment or services are provided at a facility other
3 than a hospital. Treatment for an acquired brain injury may be
4 provided under the coverage required by this chapter, as
5 appropriate, at a facility at which appropriate services may be
6 provided, including:

7 (1) a hospital regulated under Chapter 241, Health and
8 Safety Code, including an acute or post-acute rehabilitation
9 hospital; and

10 (2) an assisted living facility regulated under
11 Chapter 247, Health and Safety Code.

12 (b) This section does not apply to a small employer health
13 benefit plan.

14 Sec. 1352.008. CONSUMER INFORMATION. The commissioner
15 shall prepare information for use by consumers, purchasers of
16 health benefit plan coverage, and self-insurers regarding
17 coverages recommended for acquired brain injuries. The department
18 shall publish information prepared under this section on the
19 department's Internet website.

20 SECTION 6. The heading to Subchapter A, Chapter 1355,
21 Insurance Code, is amended to read as follows:

22 SUBCHAPTER A. GROUP HEALTH BENEFIT PLAN COVERAGE
23 FOR CERTAIN SERIOUS MENTAL ILLNESSES AND OTHER DISORDERS

24 SECTION 7. Section 1355.001, Insurance Code, is amended by
25 amending Subdivision (1) and adding Subdivisions (3) and (4) to
26 read as follows:

27 (1) "Serious mental illness" means the following

1 psychiatric illnesses as defined by the American Psychiatric
2 Association in the Diagnostic and Statistical Manual (DSM):

3 (A) bipolar disorders (hypomanic, manic,
4 depressive, and mixed);

5 (B) depression in childhood and adolescence;

6 (C) major depressive disorders (single episode
7 or recurrent);

8 (D) obsessive-compulsive disorders;

9 (E) paranoid and other psychotic disorders;

10 (F) [~~pervasive developmental disorders;~~

11 [~~(G)~~] schizo-affective disorders (bipolar or
12 depressive); and

13 (G) [~~(H)~~] schizophrenia.

14 (3) "Autism spectrum disorder" means a
15 neurobiological disorder that includes autism, Asperger's
16 syndrome, or Pervasive Developmental Disorder--Not Otherwise
17 Specified.

18 (4) "Neurobiological disorder" means an illness of the
19 nervous system caused by genetic, metabolic, or other biological
20 factors.

21 SECTION 8. Subchapter A, Chapter 1355, Insurance Code, is
22 amended by adding Section 1355.015 to read as follows:

23 Sec. 1355.015. REQUIRED COVERAGE FOR CERTAIN CHILDREN. (a)
24 At a minimum, a health benefit plan must provide coverage as
25 provided by this section to an enrollee older than two years of age
26 and younger than six years of age who is diagnosed with autism
27 spectrum disorder. If an enrollee who is being treated for autism

1 spectrum disorder becomes six years of age or older and continues to
2 need treatment, this subsection does not preclude coverage of
3 treatment and services described by Subsection (b).

4 (b) The health benefit plan must provide coverage under this
5 section to the enrollee for all generally recognized services
6 prescribed in relation to autism spectrum disorder by the
7 enrollee's primary care physician in the treatment plan recommended
8 by that physician. An individual providing treatment prescribed
9 under this subsection must be a health care practitioner:

10 (1) who is licensed, certified, or registered by an
11 appropriate agency of this state;

12 (2) whose professional credential is recognized and
13 accepted by an appropriate agency of the United States; or

14 (3) who is certified as a provider under the TRICARE
15 military health system.

16 (c) For purposes of Subsection (b), "generally recognized
17 services" may include services such as:

18 (1) evaluation and assessment services;

19 (2) applied behavior analysis;

20 (3) behavior training and behavior management;

21 (4) speech therapy;

22 (5) occupational therapy;

23 (6) physical therapy; or

24 (7) medications or nutritional supplements used to
25 address symptoms of autism spectrum disorder.

26 (d) Coverage under Subsection (b) may be subject to annual
27 deductibles, copayments, and coinsurance that are consistent with

1 annual deductibles, copayments, and coinsurance required for other
2 coverage under the health benefit plan.

3 (e) Notwithstanding any other law, this section does not
4 apply to a standard health benefit plan provided under Chapter
5 1507.

6 SECTION 9. This Act applies only to a health benefit plan
7 delivered, issued for delivery, or renewed on or after January 1,
8 2008. A health benefit plan delivered, issued for delivery, or
9 renewed before January 1, 2008, is governed by the law as it existed
10 immediately before the effective date of this Act, and that law is
11 continued in effect for that purpose.

12 SECTION 10. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1919 was passed by the House on May 11, 2007, by the following vote: Yeas 120, Nays 17, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1919 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1919 on May 28, 2007, by the following vote: Yeas 105, Nays 34, 3 present, not voting.

Chief Clerk of the House

H.B. No. 1919

I certify that H.B. No. 1919 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 28, Nays 3; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1919 on May 28, 2007, by the following vote: Yeas 22, Nays 8.

Secretary of the Senate

APPROVED: _____

Date

Governor