

By: Dean, Harless, Hull, Gerdes, Tepper,
et al. H.B. No. 139

Substitute the following for H.B. No. 139:

By: Dean C.S.H.B. No. 139

A BILL TO BE ENTITLED

1 AN ACT

2 relating to employer health benefit plans that do not include
3 state-mandated health benefits.

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

5 SECTION 1. Section 1251.202, Insurance Code, is amended to
6 read as follows:

7 Sec. 1251.202. NOTICE REGARDING CERTAIN EMPLOYER HEALTH
8 BENEFIT PLANS. (a) In this section:

9 (1) "Employer choice of benefits plan" means a plan
10 offered under Chapter 1506.

11 (2) [r] "Standard [~~standard~~] health benefit plan"

12 means a plan offered under Chapter 1507.

13 (b) If an employer offers to employees an employer choice of
14 benefits plan or a standard health benefit plan, the employer
15 shall:

16 (1) provide a copy of the disclosure statement
17 provided to the employer by the plan issuer under Section 1506.102,
18 1507.006, or 1507.056, as applicable, to:

19 (A) each employee:

20 (i) before the employee initially enrolls
21 in the plan, unless the employee received notice under Paragraph
22 (B) on or after the 90th day before the date the employee initially
23 enrolls; and

24 (ii) not later than the 30th day before the

1 date the employee renews enrollment in the plan; and
2 (B) each prospective employee before the
3 prospective employee is hired by the employer; and
4 (2) obtain a copy of the notice signed by the employee
5 or prospective employee at the time the notice is provided.

6 SECTION 2. Section [1275.002](#), Insurance Code, is amended to
7 read as follows:

8 Sec. 1275.002. APPLICABILITY OF CHAPTER. This chapter
9 applies only to:

10 (1) a health benefit plan offered by a nonprofit
11 agricultural organization under Chapter [1682](#); ~~and~~

12 (2) a health benefit plan:

13 (A) that is a self-insured or self-funded plan
14 established by an employer for the benefit of the employer's
15 employees in accordance with the Employee Retirement Income
16 Security Act of 1974 (29 U.S.C. Section 1001 et seq.); and

17 (B) for which the plan sponsor has made an
18 election, submitted to the commissioner in the form and manner
19 prescribed by the commissioner, to apply this chapter to the plan
20 for the relevant plan year; and

21 (3) an employer choice of benefits plan offered under
22 Chapter 1506.

23 SECTION 3. Section [1501.002](#)(15), Insurance Code, is amended
24 to read as follows:

25 (15) "Small employer health benefit plan" means a
26 health benefit plan developed by the commissioner under Subchapter
27 F ~~for any other health benefit plan offered to a small employer in~~

1 ~~accordance with Section 1501.252(c) or 1501.255~~].

2 SECTION 4. Section 1501.213(b), Insurance Code, is amended
3 to read as follows:

4 (b) A health maintenance organization that participates in
5 a purchasing cooperative that provides employees of small employers
6 a choice of health benefit plans may use rating methods in
7 accordance with this subchapter that are used by other small
8 employer health benefit plan issuers participating in the same
9 cooperative, including rating by age and gender, if the health
10 maintenance organization has established[~~–~~

11 [~~(1)~~] a separate class of business, as provided by
12 Section 1501.202[~~, and~~

13 [~~(2)~~ a separate line of business, as provided under
14 ~~section 1501.255(b)~~].

15 SECTION 5. Subtitle G, Title 8, Insurance Code, is amended
16 by adding Chapter 1506 to read as follows:

17 CHAPTER 1506. EMPLOYER CHOICE OF BENEFITS PLANS

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 1506.001. DEFINITIONS. In this chapter:

20 (1) "Employer choice of benefits plan" means a group
21 health benefit plan offered to an employer that, wholly or partly,
22 does not offer or provide state-mandated health benefits, but that
23 provides creditable coverage as defined by Section 1205.004(a) or
24 1501.102(a).

25 (2) "Health benefit plan issuer" means any entity
26 authorized under this code or another insurance law of this state to
27 provide health insurance or health benefits in this state. The term

1 includes an insurance company and a health maintenance organization
2 operating under Chapter 843.

3 (3) "State-mandated health benefits" means coverage
4 or another feature required under this code or other laws of this
5 state to be provided in a group health benefit plan that:

6 (A) includes coverage for specific health care
7 services or benefits;

8 (B) places limitations or restrictions on
9 deductibles, coinsurance, copayments, or any annual or lifetime
10 maximum benefit amounts, including limitations provided by
11 commissioner rule;

12 (C) includes a specific category of licensed
13 health care practitioner from whom an enrollee is entitled to
14 receive care;

15 (D) requires standard provisions or rights that
16 are unrelated to a specific health illness, injury, or condition of
17 an enrollee;

18 (E) requires the health benefit plan to provide
19 coverage for health care services or benefits in excess of federal
20 requirements; or

21 (F) is a requirement for which an exemption is
22 provided under Section 1506.105.

23 Sec. 1506.002. RULES. The commissioner shall adopt rules
24 necessary to implement this chapter.

25 SUBCHAPTER B. EMPLOYER CHOICE OF BENEFITS PLANS

26 Sec. 1506.101. PLANS AUTHORIZED. (a) A health benefit plan
27 issuer may offer one or more employer choice of benefits plans.

1 (b) An employer choice of benefits plan must include
2 coverage for an essential health benefits package as determined by
3 the commissioner based on 42 U.S.C. Section 18022, including:
4 (1) ambulatory patient services;
5 (2) emergency services;
6 (3) hospitalization;
7 (4) maternity and newborn care;
8 (5) mental health and substance use disorder services,
9 including behavioral health treatment;
10 (6) prescription drugs;
11 (7) rehabilitative and habilitative services and
12 devices;
13 (8) laboratory services;
14 (9) preventative and wellness services and chronic
15 disease management; and
16 (10) pediatric services, including oral and vision
17 care.

18 (c) An employer choice of benefits plan may not include a
19 preexisting condition exclusion.

20 Sec. 1506.102. NOTICE TO ENROLLEES. (a) Each written
21 application to enroll in an employer choice of benefits plan must
22 contain the following language at the beginning of the document in
23 bold type:

24 "You have the option to enroll in this Employer Choice
25 of Benefits Plan that does not provide all coverage or features
26 normally required in health benefit plans in Texas. This employer
27 health benefit plan may provide a more affordable health benefit

1 plan for you, although, at the same time, it may provide you with
2 fewer health benefits or other features than those normally
3 included in health benefit plans in Texas. If you choose this
4 employer health benefit plan, please consult with your plan issuer
5 to discover which state-mandated health benefits or other features
6 are excluded from this health benefit plan."

7 (b) Each employer choice of benefits plan must contain the
8 following language at the beginning of the document in bold type:

9 "This Employer Choice of Benefits Plan does not provide
10 all coverage or features normally required in health benefit plans
11 in Texas. This employer health benefit plan may provide a more
12 affordable health benefit plan for you, although, at the same time,
13 it may provide you with fewer health benefits or other features than
14 those normally included in health benefit plans in Texas. Please
15 consult with your employer representative to discover which
16 state-mandated health benefits or other features are excluded from
17 this health benefit plan."

18 Sec. 1506.103. DISCLOSURE STATEMENT. (a) Before a health
19 benefit plan issuer may contract to provide an employer choice of
20 benefits plan to an employer, the issuer must provide the employer
21 with a written disclosure statement that:

22 (1) acknowledges that the employer health benefit plan
23 being contracted for does not provide some or all state-mandated
24 health benefits; and

25 (2) lists those state-mandated health benefits not
26 included in the plan.

27 (b) An employer entering into a contract for an employer

1 choice of benefits plan must sign the disclosure statement provided
2 by the health benefit plan issuer under Subsection (a) and return
3 the statement to the issuer.

4 (c) A health benefit plan issuer shall:

5 (1) retain the signed disclosure statement in the
6 health benefit plan issuer's records; and
7 (2) on request from the commissioner, provide the
8 signed disclosure statement to the department.

9 Sec. 1506.104. ADDITIONAL HEALTH BENEFIT PLANS. A health
10 benefit plan issuer that offers one or more employer choice of
11 benefits plans must also offer employers at least one group health
12 benefit plan that provides state-mandated health benefits and is
13 otherwise authorized by this code.

14 Sec. 1506.105. COVERAGE EXEMPT FROM INSURANCE LAW. (a)
15 Except as provided by Subsection (b), an employer choice of
16 benefits plan provided under this chapter is exempt from any other
17 insurance law that does not expressly apply to the plan or this
18 chapter.

19 (b) An employer choice of benefits plan is not exempt from
20 the requirements imposed by the following:

21 (1) Titles 2, 3, 4, 5, 6, 9, and 13, as applicable,
22 except that an employer choice of benefits plan offered by a health
23 maintenance organization is exempt from requirements imposed by
24 Chapter 843 to the extent that those requirements conflict with
25 this chapter;

26 (2) Subchapters B, C, and F, Chapter 1271; and

27 (3) Sections 843.209, 1301.1581, 1301.162, and

1 1369.153.

2 SECTION 6. The following provisions of the Insurance Code
3 are repealed:

4 (1) Section 1501.213(a);
5 (2) Section 1501.252;
6 (3) Section 1501.254;
7 (4) Section 1501.255; and
8 (5) Section 1501.259.

9 SECTION 7. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2025.