

**SUBJECT:** Small employer health benefit plans

**COMMITTEE:** Insurance — committee substitute recommended

**VOTE:** 9 ayes — Smithee, Seaman, Bonnen, Eiland, Gallego, B. Keffer, Taylor, Thompson, Van Arsdale

0 nays

**WITNESSES:** For — Luke Bellsnyder, Texas Association of Business; Eric Glenn, Humana; David Pinkus, Small Business United of Texas; Pati McCandless, UNICARE; Mike Pollard, Texas Association of Life and Health Insurers

Against — None

On — Lisa McGiffert, Consumers Union

**BACKGROUND:** In 1993, the 73rd Legislature enacted the Small Employer Health Insurance Availability Act (Insurance Code, Ch. 26), which developed two health benefit plans for sale to small employers: a catastrophic plan and a basic health plan.

The commissioner of the Texas Department of Insurance was required to create prototype forms that included all the required information and outlined the required benefits section for each policy. A insurer could not offer a plan to a small employer that did not comply with the prototype.

Health Maintenance Organizations (HMOs) are required to offer certain minimum benefits, based on federal requirements in the Public Services Act. That statute defines “basic health services” to include, physician services, hospital services, emergency health services, evaluative and intervention mental health services, addiction treatment, laboratory tests, home health services, and preventive health services, including immunizations.

Texas law mandates the inclusion of many specific treatments or services in health insurance policies regulated by the state. The number of these mandates depends on how they are counted; one study estimates as many as

63 mandates. Each treatment and service was added to law separately, and the evaluation in each enacting bill was based on that particular service's cost-effectiveness and value to beneficiaries' health.

**DIGEST:**

CSHB 1267 would amend the Small Employer Health Insurance Availability Act to permit insurers that offer plans to small employers to use any policy plan form that is filed with and approved by the Texas Department of Insurance (TDI). The commissioner no longer would create a prototype.

The bill would not change the statutorily required minimum coverage that plans must offer, but would permit plans to exclude any state-mandated health benefit. This would include a health care service or benefit; limitations on deductibles, coinsurance, copayments, or any lifetime maximum benefits amounts; and categories of health care practitioners. It would not include any required benefit that was unrelated to a specific illness, injury, or condition, including required provisions relating to continuation or termination of coverage, preexisting conditions, and coverage of children and grandchildren.

The bill would remove the requirements that HMOs comply with the Public Services Act and remove the requirement that basic health services include the requirements in that act.

The bill would take effect September 1, 2003 and would apply to plans issued on or after January 1, 2004.

**SUPPORTERS  
SAY:**

CSHB 1267 would make more health plans available to small employers. Current law is inflexible and makes it difficult for insurers to offer plans to small businesses. The flexibility in the bill would permit insurers to adapt existing plans to offer to small businesses.

The current package of mandated benefits prevents some employers — especially small businesses — from offering coverage. Insurers could offer stripped-down policies at a lower price, making health insurance more accessible and affordable. Already, insurers report that their most popular plans for small businesses have the least extensive coverage and the lowest cost.

Texas' small businesses need a less expensive way to offer health insurance to

their employees. According to the comptroller's e-Texas report, *Limited Government, Unlimited Opportunity*, many Texans working for small employers do not have health insurance, accounting for a significant portion of the state's uninsured workers. A TDI survey in 2002 found that almost 70 percent of responding small businesses cited cost as the main reason for not offering health insurance coverage.

**OPPONENTS  
SAY:**

In the absence of data establishing a strong link between mandates and premium pricing, the state should not change the current mandates, which are necessary to maintain minimum standards in health insurance coverage. There is no guarantee that removing mandates would make coverage more affordable to small businesses.

This bill would not address the fundamental problem of rising health insurance costs. Even if insurers offered a break on some plans without mandates, the rising cost of health coverage likely would overwhelm any savings.

**OTHER  
OPPONENTS  
SAY:**

The state should establish a process for evaluating the cost-effectiveness of mandates before removing them. For example, the Joint Interim Committee on Mandated Benefits in 2000 recommended that the Sunset Advisory Commission could review enacted mandates.

**NOTES:**

The bill as introduced differs from the committee substitute in that it would have required the TDI Commissioner to adopt plans, rather than approve them. Also it would not have removed state mandated benefits.