**Subchapter X. Preferred Provider Plans**

**28 TAC §3.3713**

**1. INTRODUCTION.** The Texas Department of Insurance proposes the repeal of Title 28 Texas Administrative Code §3.3713, which requires an insurer to develop, submit to the department, and implement a plan to collect and analyze information from health care facilities on the effects of undercompensated care.

 Undercompensated care issues in Texas are undergoing considerable change as a result of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152, and the grant by the federal government of a waiver under Section 1115 of the Social Security Act (Title 42 U.S.C. Section 1315) of certain Medicaid regulations. The many changes will affect how facilities will be reimbursed, and may alter the amount of undercompensated care. As changes are implemented, the market in Texas will continue to evolve, substantially reducing the usefulness of the data that would be collected pursuant to §3.3713. Repealing the section will allow insurers and other actors in the health care market to work on maintaining a stable insurance and health care service market. The department will continue to monitor the issue of undercompensated care to determine whether regulatory action is needed.

**2. FISCAL NOTE.** Doug Danzeiser, manager, Regulatory Matters, has determined that during each year of the first five years that the proposed repeal is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the section. There will be no measurable effect on local employment or the local economy as a result of the proposal.

**3. PUBLIC BENEFIT/COST NOTE.** Mr. Danzeiser has also determined that for each year of the first five years the repeal of the section is in effect, the public benefit anticipated as a result of the reduction of administration and enforcement efforts caused by repealing the section will be an improved opportunity for insurers and other actors in the health care market to focus on maintaining a stable insurance and health care service market. There is no anticipated economic cost to persons who are required to comply with the proposed repeal. There is no anticipated difference in cost of compliance between small and large businesses.

**4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES.** In accord with the Government Code §2006.002(c), the department has determined that this proposed repeal will not have an adverse economic effect on small or micro business carriers because it is simply a repeal of a data collection and analysis requirement. In accord with the Government Code §2006.002, the department is not required to prepare a regulatory flexibility analysis.

**5. TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner’s right to property that would otherwise exist in the absence of government action and does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

**6. REQUEST FOR PUBLIC COMMENT.** To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on December 3, 2012, to Sara Waitt, general counsel, by email at: chiefclerk@tdi.state.tx.us or by mail at: Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment must be simultaneously submitted to Doug Danzeiser, manager, by email at: LHLcomments@tdi.state.tx.us or by mail at: Mail Code 107-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing must be submitted separately to the Office of Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

**7. STATUTORY AUTHORITY.** The repeal of §3.3713 is proposed pursuant to Insurance Code §1301.007 and §36.001. Section 1301.007 provides that the commissioner of insurance must adopt rules as necessary to implement Chapter 1301. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

**8. CROSS REFERENCE TO STATUTE.** The proposed repeal affects regulation pursuant to the following statute:

 Rule Statute

 §3.3713 Insurance Code §36.001 and

 §1301.007

**9. TEXT.**

**§3.3713. Submission of Plan; Collection and Analysis of Information Concerning the Effects of Undercompensated Care.**

**10. CERTIFICATION**. This agency certifies that legal counsel has reviewed the proposed repeal and found it to be within the agency’s legal authority to adopt.

Issued at Austin, Texas, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2012.

 Sara Waitt

 General Counsel

 Texas Department of Insurance