



**2018 TDI
COMPLIANCE
CONFERENCE**

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Health Insurance Legislative Update

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ACA Updates

Congressional Action

- ★ ACA repeal attempts – have not passed
 - American Health Care Act
 - Better Care Reconciliation Act (and Cruz amendment)
 - Obamacare Repeal and Reconciliation Act (no replacement)
 - Health Care Freedom Act
 - Skinny Repeal
 - Graham-Cassidy
- ★ Passed: Individual mandate penalty = \$0 in 2019
 - Tax Cuts and Jobs Act
- ★ Market stabilization bills – have not passed
 - Alexander-Murray, funding for cost-sharing reductions
 - Collins-Nelson, funding for reinsurance



Federal Rulemaking

- ★ HHS Notice of Benefit and Payment Parameters for 2019
 - 2019 Letter to Issuers in the FFE
- ★ Definition of “Employer” Under Section 3(5) of ERISA – Association Health Plans
 - Executive Order 13813: Promoting Healthcare Choice and Competition Across the United States
- ★ Short-Term, Limited Duration Insurance



Individual ACA Market in 2018

On exchange:

- ★ BCBSTX (HMO)
- ★ Celtic/Ambetter (EPO)
- ★ CHRISTUS (HMO)
- ★ Community Health Choice (HMO)
- ★ Molina (HMO)
- ★ Oscar (EPO)
- ★ Sendero (HMO)
- ★ SHA/Firstcare (HMO)

texashealthoptions.com/cp2/individualplans.html

Off exchange:

- ★ Freedom Life (PPO)
- ★ Insurance Company of Scott and White (PPO)
- ★ Scott and White (HMO)
- ★ Vista (HMO)

Withdrawals:

- ★ Aetna (EPO)
- ★ Allegian (PPO and HMO)
- ★ Cigna (EPO and HMO)
- ★ Community First Health Plans (HMO)
- ★ Humana (HMO)
- ★ Memorial Hermann (PPO and HMO)
- ★ Prominence (HMO)



Health-Related Bills Enacted by the 85th Texas Legislature

Parity for Mental Health and Substance Use Benefits

- ★ [HB 10](#) requires parity between mental health/substance use disorder and medical-surgical benefits
 - Parity for quantitative and nonquantitative treatment limits
- ★ Aligns Texas parity requirements with federal law
- ★ Creates new parity resources:
 - HHSC Ombudsman for Behavioral Health Access to Care (and TDI Liaison)
 - Mental Health Condition and Substance Use Disorder Parity Work Group, to develop a strategic plan to increase compliance
 - Data collection related to the rate at which benefits are subject to prior authorization, denial, and appeals



New Mandate Bills

- ★ [HB 490](#) – hearing aids and cochlear implants for children age 18 or younger (TIC Ch. 1367, Subch. F)
 - Individual, small group, large group, CCPs, and state employee plans; QHPs exempt if exceeds EHB
 - Subject to any coverage provision that applies generally for durable medical equipment
- ★ [HB 1036](#) – 3D mammography (breast tomosynthesis)
 - Definition of low-dose mammography under Chapter 1356 expanded to include digital mammography and breast tomosynthesis
 - Applicability expanded to broader group of entities providing health coverage



ACA-Related Bills

- ★ [SB 2087](#) – temporary risk pool and waiver authority; expires 8/31/19
 - Establishment of temporary risk pool contingent upon federal funds becoming available
 - Pool funds may be used for reinsurance program
 - Provides authority for TDI to apply for and administer waiver
 - Provides limited authority for TDI to react to any federal law to repeal/replace the ACA
- ★ [SB 1406](#) – limited authority to apply for waiver of actuarial value requirements and de minimis variation



Prescription Drug Bills

- ★ [HB 1296](#) – creates new Subch. J under TIC Ch. 1369
 - Requires process for synchronization of refills and pro-rated cost-sharing for medications to treat chronic illness
- ★ [SB 680](#) – amends TIC Ch. 1369, Subch. B
 - Requirements for step therapy protocols, including standards for clinical review criteria, exceptions process and timeframes, and circumstances under which a request must be granted
- ★ [SB 1076](#) – amends TIC Ch. 1369, Subch. A
 - Prescription cost-sharing must be the lesser of: applicable copay; allowable claim amount; cash-pay price
 - Early refills for prescription eye drops for chronic conditions



Telemedicine and Telehealth

- ★ [SB 1107](#) creates new broadened definition of telemedicine and telehealth – Occupations Code §111.001
- ★ Specifies that health plans are not required to provide coverage for services limited to only phone, fax, or email
- ★ Narrows telemedicine/telehealth coverage requirement to services provided by “preferred or contracted” providers, which exempts these services from “freedom of choice” requirements that otherwise apply



Expansion to Mediation

- ★ [SB 507](#) expanded mediation from emergency care provided by an ER physician in an in-network facility to any ER care provider, including out-of-network facilities
- ★ Mediation expanded from specified types of facility-based physicians in an in-network facility to all types of facility-based providers in an in-network facility
- ★ Claims where balance bill is \$500+ may go to mediation at the request of the enrollee (but enrollee does not otherwise have to participate)
- ★ Qualifying bills and explanations of benefits must include a notice explaining the availability of mediation



Abortion Coverage Prohibited

[HB 214 \(85-1\)](#) prohibits coverage of elective abortion by any qualified health plan or other major medical plan

- Elective abortion defined to include any abortion not meeting the medical emergency standard defined at Health and Safety Code §171.002
- Does not prevent a supplemental insurance product from covering elective abortion services, if:
 - Coverage is provided separately with a distinct signature
 - An additional premium is charged that is sufficient to cover the estimated cost of abortion services without estimated savings
 - Notice is provided that coverage is optional and separate



Interim Charges

House Insurance Committee Interim Charges

Assess the status of the health insurance market in Texas and opportunities to improve this market through waivers of federal law or other mechanisms. Monitor any changes in federal law that may affect these options.



House Insurance Committee Interim Charges

Evaluate recent efforts by the Legislature and the Texas Department of Insurance to minimize instances of surprise medical billing and to ensure the adequacy of health insurance networks. Identify instances in which surprise billing most often occurs and ways to decrease its frequency through enhanced transparency or other methods.



House Insurance Committee Interim Charges

- ★ Examine the impacts of changes in prescription drug coverage and drug formularies on patients, particularly those with chronic conditions.
- ★ Evaluate recent efforts in Texas and in other states to enhance transparency regarding the practices of pharmacy benefit managers.



Action on Interim House Insurance Charges

Committee hearing held December 6, 2017, with all four health insurance related charges addressed on the agenda

- [Hearing notice](#)
- [Witness list](#)
- [Video archive](#)
- [Interim Committee Charges](#)



Senate Health and Human Services Committee

Health Care Cost Transparency:

Study efforts by the Department of State Health Services and the Texas Department of Insurance to increase health care cost transparency, including a review of the Texas Health Care Information Collection (THCIC) system, and the Consumer Guide to Healthcare. Recommend ways to make provider and facility fees more accessible to consumers to improve health care cost transparency, increase quality of care, and create a more informed health care consumer base.



Action on Interim Senate HHS Charges

Committee hearing held March 21, 2018, with the health care cost transparency charge included on the agenda

- [Hearing notice](#)
- [Video archive](#)
- [Interim Committee Charges](#)



Questions?