

1 AN ACT

2 relating to health benefit plan coverage for orally administered  
3 anticancer medications.

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

5 SECTION 1. Chapter 1369, Insurance Code, is amended by  
6 adding Subchapter E to read as follows:

7 SUBCHAPTER E. COVERAGE FOR ORALLY ADMINISTERED ANTICANCER  
8 MEDICATIONS

9 Sec. 1369.201. DEFINITIONS. In this subchapter:

10 (1) "Health benefit exchange" means an American Health  
11 Benefit Exchange administered by the federal government or created  
12 pursuant to Section 1311(b), Patient Protection and Affordable Care  
13 Act (42 U.S.C. Section 18031).

14 (2) "Qualified health plan" has the meaning assigned  
15 by Section 1301(a), Patient Protection and Affordable Care Act (42  
16 U.S.C. Section 18021).

17 Sec. 1369.202. APPLICABILITY OF SUBCHAPTER. This  
18 subchapter applies only to a health benefit plan, including a small  
19 employer health benefit plan written under Chapter 1501 or coverage  
20 provided by a health group cooperative under Subchapter B of that  
21 chapter, that provides benefits for medical or surgical expenses  
22 incurred as a result of a health condition, accident, or sickness,  
23 including an individual, group, blanket, or franchise insurance  
24 policy or insurance agreement, a group hospital service contract,

1 or an individual or group evidence of coverage or similar coverage  
2 document that is offered by:

3 (1) an insurance company;

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

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

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

10 (5) an exchange operating under Chapter 942;

11 (6) a Lloyd's plan operating under Chapter 941;

12 (7) a health maintenance organization operating under  
13 Chapter 843; or

14 (8) an approved nonprofit health corporation that  
15 holds a certificate of authority under Chapter 844.

16 Sec. 1369.203. EXCEPTION. (a) This subchapter does not  
17 apply to:

18 (1) a plan that provides coverage:

19 (A) only for fixed indemnity benefits for a  
20 specified disease or diseases;

21 (B) only for accidental death or dismemberment;

22 (C) for wages or payments in lieu of wages for a  
23 period during which an employee is absent from work because of  
24 sickness or injury;

25 (D) as a supplement to a liability insurance  
26 policy;

27 (E) only for dental or vision care; or

- 1           (F) only for indemnity for hospital confinement;  
2           (2) a Medicare supplemental policy as defined by  
3 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);  
4           (3) a workers' compensation insurance policy;  
5           (4) medical payment insurance coverage provided under  
6 an automobile insurance policy;  
7           (5) a credit insurance policy;  
8           (6) a limited benefit policy that does not provide  
9 coverage for physical examinations or wellness exams;  
10          (7) a multiple employer welfare arrangement that holds  
11 a certificate of authority under Chapter 846; or  
12          (8) a long-term care insurance policy, including a  
13 nursing home fixed indemnity policy, unless the commissioner  
14 determines that the policy provides benefit coverage so  
15 comprehensive that the policy is a health benefit plan as described  
16 by Section 1369.201.

17          (b) This subchapter does not apply to a qualified health  
18 plan offered through a health benefit exchange.

19          Sec. 1369.204. REQUIRED COVERAGE FOR ORALLY ADMINISTERED  
20 ANTICANCER MEDICATIONS. (a) A health benefit plan that provides  
21 coverage for cancer treatment must provide coverage for a  
22 prescribed, orally administered anticancer medication that is used  
23 to kill or slow the growth of cancerous cells on a basis no less  
24 favorable than intravenously administered or injected cancer  
25 medications that are covered as medical benefits by the plan.

26          (b) This section does not prohibit a health benefit plan  
27 from requiring prior authorization for an orally administered

1 anticancer medication. If an orally administered anticancer  
2 medication is authorized, the cost to the covered individual may  
3 not exceed the coinsurance or copayment that would be applied to a  
4 chemotherapy or other cancer treatment visit.

5 (c) A health benefit plan issuer may not reclassify  
6 anticancer medications or increase a coinsurance, copayment,  
7 deductible, or other out-of-pocket expense imposed on anticancer  
8 medications to achieve compliance with this section. Any plan  
9 change that otherwise increases an out-of-pocket expense applied to  
10 anticancer medications must also be applied to the majority of  
11 comparable medical or pharmaceutical benefits under the plan.

12 (d) This section does not prohibit a health benefit plan  
13 issuer from increasing cost-sharing for all benefits, including  
14 anticancer treatments.

15 SECTION 2. Subchapter E, Chapter 1369, Insurance Code, as  
16 added by this Act, applies only to a health benefit plan that is  
17 delivered, issued for delivery, or renewed on or after January 1,  
18 2012. A health benefit plan that is delivered, issued for delivery,  
19 or renewed before January 1, 2012, is covered by the law in effect  
20 at the time the plan was delivered, issued for delivery, or renewed,  
21 and that law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2011.

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I certify that H.B. No. 438 was passed by the House on April 21, 2011, by the following vote: Yeas 147, Nays 1, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 438 was passed by the Senate on May 10, 2011, by the following vote: Yeas 31, Nays 0.

Daisy Spaw  
Secretary of the Senate

APPROVED: 21 MAY '11  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
7:15 pm O'CLOCK

Donna R. Edwards  
Secretary of State