

SUBJECT: Extending the allowable lapse in health benefit coverage

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Smithee, Eiland, Burnam, G. Lewis, Olivo, Thompson, Wise
0 nays
2 absent — J. Moreno, Seaman

SENATE VOTE: On final passage, May 3 — voice vote

WITNESSES: None

BACKGROUND: Under current law, individuals who have been continuously covered by a health benefit plan for a period of 18 months may go up to 63 days without coverage:

- ! before the preexisting condition provisions of a new individual health benefit plan would apply; or
- ! to be eligible for the Texas Health Insurance Risk Pool.

Also under current law, individuals who have been continuously covered for a period of 12 months may go up to 63 days without coverage and avoid the application of the preexisting condition provisions of:

- ! a risk pool health benefit plan;
- ! a multiple employer welfare arrangement (MEWA) plan;
- ! a small employer health benefit plan; or
- ! a large employer health benefit plan.

These provisions were enacted last session in HB 1212 by Averitt in response to new federal insurance requirements. In 1996, Congress enacted the Health Insurance Portability and Accountability Act (P.L. 104-191), also known as the Kassebaum/Kennedy law, which created federal standards for insurers, health maintenance organizations (HMOs), and employer plans, among other health insurance provisions. Texas was required to adopt certain provisions

of the federal requirements by July 1, 1997, or lose enforcement authority over these plans

DIGEST: SB 497 would increase to 105 days the amount of time an individual could go without coverage and still be eligible for coverage under the Texas Health Insurance Risk Pool or before a preexisting condition provision would apply in:

- ! an individual health benefit plan;
- ! a risk pool health benefit plan;
- ! a multiple employer welfare arrangement (MEWA) plan;
- ! a small employer health benefit plan; and
- ! a large employer health benefit plan.

The bill would take effect September 1, 1999, and apply to application of a preexisting condition provision in a health benefit plan that was delivered, issued for delivery, or renewed on or after January 1, 2000.

SUPPORTERS SAY: SB 497 would update provisions enacted last session to conform more closely with the actual experience of workers moving between jobs. Recent statistics compiled by the Texas Workforce Commission indicate that in the past two years, the average worker who lost a job was out of work for 101 to 110 days, or an average of 105 days, before finding a new job.

The intent behind current state and federal law is to allow for job movement without penalizing formerly insured workers who have preexisting conditions by the application of waiting periods, which usually range from six to twelve months, when they obtain subsequent coverage. Without such exemptions, workers become “job locked” in that they are unable to make employment moves that ultimately would benefit their families because of the costs of health care for preexisting conditions.

Last session, 63 days was chosen for the allowable lapse duration because that was the minimum federal requirement under Kennedy-Kassebaum. However, the federal law does not impose an upper limit on coverage lapse, leaving that issue for states to decide.

Extending the period by only 32 days would not increase the incidence of adverse selection, that is, of people signing up for coverage only when they

are sick, because the type of people addressed in this bill would be those who responsibly obtain health coverage when they can, have a demonstrated track record of having had prior coverage for 12 to 18 months, and the only reason that they are without health coverage is because they are temporarily in between jobs.

**OPPONENTS
SAY:**

Extending the period in which a worker could go without coverage and not have preexisting condition provisions apply on their new coverage would increase the incidence of adverse selection, which ultimately increases the cost of insurance benefits for all.

**OTHER
OPPONENTS
SAY:**

For employment-based coverage only, increasing the length of time between jobs and coverage to 120 days or 180 days still would not increase risk of adverse selection for health benefit carriers and would cover those individuals and families whose job hunt takes longer than the statewide average of the past two years. An extended period for workers may become especially crucial should the economy start to decline.