

Informal Working Draft and Request for Informal Comments on Association and Student Health Plan Rules

Texas Administrative Code, Title 28, Chapter 21, Subchapter S

Posting date: October 7, 2024

Comments due: November 7, 2024

The Texas Department of Insurance (TDI) has prepared an informal working draft of rules related to association and student health plans.

The draft revisions amend Chapter 21, Subchapter S, to create two divisions:

- Division 1 contains the existing rule provisions, adopted to implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA) guaranteed renewability requirements for major medical coverage issued through member-only associations. (This division does not apply to employer associations.) Because the Affordable Care Act's guaranteed-issue requirements now preclude the sale of major medical coverage through member-only associations, the primary effect of these updates is on student health plans. The draft revisions would:
 - Expand the scope of the rules to apply to student health plans.
 - Address coverage of preexisting conditions.
 - Limit renewability requirements when members no longer live or work within a preferred or exclusive provider benefit plan's approved service area.
 - Clarify that issuers may make uniform modifications of coverage at renewal, consistent with federal rules.
 - Require a 60-day notice of a rate increase, consistent with requirements for other major medical coverage.
- Division 2 contains new rule provisions that address association eligibility standards for group coverage in Insurance Code Chapters 1131 and 1251. The draft rules would clarify association eligibility standards, streamline filing requirements, and reduce costs for issuers.
 - Currently, TDI reviews an association's eligibility every time an issuer wants to issue a new product or form to the association. These filings are classified as policy filings and are assessed a \$100 state filing fee.
 - Under the draft rule, once TDI confirms an association's eligibility under the new rule, issuers would be able to issue subsequent coverage to that

association for five years with only an informational filing to TDI. After five years have passed, TDI would reexamine the association's eligibility before a new form can be issued. Association filings would be classified under a new filing type and would not be subject to the state filing fee.

- The draft rule would also require issuers to provide, in conjunction with an application or enrollment form for association coverage, a consumer disclosure that explains the relationship between the association and the issuer, the difference between membership fees and premiums, and any compensation that the issuer pays to the association.

TDI previously addressed the designation as a bona fide employer association in 28 TAC §26.301(g), which allows certain employer groups to be treated as single large employers with respect to major medical coverage requirements, consistent with federal requirements. Under the draft §21.2751, bona fide employer associations seeking major medical coverage under Insurance Code Chapter 1501 would be exempt from Division 2's eligibility filing requirements. The issuer would only be required to make the filings required in §26.301(g) for a bona fide employer association seeking major medical coverage.

TDI invites your input on the informal working draft. In particular, TDI seeks input from industry on any costs associated with complying with the informal text that are not imposed by the statute. This input will inform the analysis that TDI must include in the formal rule proposal under Government Code Chapter 2001. TDI believes that the industry is already complying with most of the provisions in the draft, so TDI does not anticipate significant new costs. TDI also believes that the streamlined association eligibility confirmation process and elimination of state filing fees will reduce issuer costs, which should result in a net saving from the proposed changes. If you feel this is incorrect, please take this opportunity to provide your input. Please also provide input on the time needed to implement the new filing requirements.

This is an informal posting intended to gather comments from stakeholders and the general public. This is not a formal publication for rulemaking.

The comment period for this informal working draft will close at 5 p.m. Central time, November 7, 2024. Submit comments or questions to Cynthia Geisewite in the Life and Health Division at LHLComments@tdi.texas.gov.

[Continue to the informal draft of Association and Student Health Plan Rules.](#)