



Greg Schwab

Bill Analysis
Legislative Service Commission

H.B. 122
125th General Assembly
(As Introduced)

Reps. Schaffer, White, Willamowski, Brinkman, Allen, Koziura

BILL SUMMARY

- Postpones from February 9, 2004, until February 9, 2014 the effective date of several changes to statutory provisions that govern certain uses of genetic screening and testing in connection with health care coverage.

CONTENT AND OPERATION

Current limitations on insurers' use of genetic testing to be continued

(secs. 3901.491 and 3901.501; Sections 3 and 5)

Existing law prohibits sickness and accident insurers and self-insured government entities from doing any of the following in processing an application for coverage or renewal:

- (1) Requiring the applicant to submit to genetic screening or testing;
- (2) Taking the results of genetic screening or testing into consideration, unless an applicant for coverage or renewal voluntarily submits favorable results;
- (3) Inquiring about the results of genetic screening or testing;
- (4) Making a decision adverse to the applicant based on entries in medical records or other reports of genetic screening or testing;
- (5) Asking the applicant directly or indirectly, in developing the applicant's medical history, for the results of genetic screening or testing;
- (6) Canceling or refusing to issue or renew coverage based on the results of genetic screening or testing; and
- (7) Limiting policy or plan benefits based on the results of genetic screening or testing.

The same prohibitions currently apply to health insuring corporations (R.C. 1751.64).

A violation of any of these prohibitions by a health insuring corporation, sickness and accident insurer, or self-insured government entity, currently is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code. The Superintendent of Insurance and the courts may take action against and impose penalties on persons engaged in an unfair and deceptive act or practice in the business of insurance.

Under continuing law, "genetic screening or testing" is defined as a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders. The law defines sickness and accident insurance for this purpose to exclude disability income insurance and supplemental policies of sickness and accident insurance. The law does not define a "government entity."

Scheduled repeal under current law

The current limitations on insurers' use of genetic information are scheduled for repeal on February 9, 2004. The scheduled repeal was set by Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly and Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly and applies to contracts and policies delivered, issued for delivery, or renewed on or after the repeal date, and to self-insured government plans established or modified on or after that date.

Under current law, new genetic testing provisions become applicable after February 9, 2004. At that future date, health insuring corporations, sickness and accident insurers, and self-insured government entities would be prohibited from both of the following:

(1) Considering, in a manner adverse to an applicant or insured, any information obtained from genetic screening or testing conducted prior to the February 9, 2004, repeal date in processing an application or determining insurability under a policy; and

(2) Inquiring, directly or indirectly, into the results of genetic screening or testing conducted prior to the February 9, 2004, repeal date, or from using the results, in whole or in part, to cancel, refuse to issue or renew, or limit benefits under, a policy, plan, contract, or agreement.

The provisions on genetic testing that currently would take effect after February 9, 2004, would not prohibit a health insuring corporation, sickness and accident insurer, or self-insured government entity from considering the results of genetic screening and testing conducted after February 9, 2004.

Scheduled repeal delayed by the bill

(Sections 3 and 5)

The bill delays the scheduled repeal of the restrictions on insurers' use of genetic information. Under the bill, the restrictions would be repealed on February 9, 2014, ten years later than the currently scheduled repeal date. The new provisions on genetic screening and testing will not be applicable until that date.

COMMENT

Because the repeal of sections 3901.49 and 3901.50 of the Revised Code, governing genetic testing by insurers and self-insured government entities, no longer are based on dates set by Sub. H.B. 71 of the 120th General Assembly, references to Sub. H.B. 71 are removed from sections 3901.491 and 3901.501 of the Revised Code. Section 1751.65 of the Revised Code, governing genetic testing by health insuring corporations after the repeal of section 1751.64 of the Revised Code, does not appear in this bill; it does not contain a similar reference to Am. Sub. S.B. 67 of the 122nd General Assembly, the bill that set the repeal date for section 1751.64 of the Revised Code, so it did not need to be amended.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-12-03	p. 228

H0122-I-125.doc/ejs

