



## **SB 206 AND 207 INCREASE CONSUMER PROTECTIONS AROUND HEALTH INSURANCE POLICY RESCISSIONS**

Consumers expect that when they obtain health insurance, their insurance company has completed all medical underwriting and cleared up any questions about information they provided on the application. Once the policy is in force, consumers expect to be covered according to the terms of their insurance contracts. These expectations are not met when health insurance policies are rescinded—a retroactive cancellation of a policy in force. SB 206 and 207 enhance the Texas Department of Insurance’s ability to monitor rescissions to better protect consumers and decrease insurance industry incentives that could drive up rescission rates.

### **Impact of Rescissions**

Fortunately, rescissions do not appear to occur frequently in Texas. Data available from the Texas Department of Insurance (TDI) show that 0.3 percent of health insurance policies sold in the individual market in Texas in 2007 were rescinded. The number or proportion of policies rescinded, however, cannot reflect the true impact of rescissions on Texans. Rescissions can have dire effects on the life and health of a policyholder. The types of events that would cause an insurance company to re-examine a policyholder’s application after a policy is in place likely include high-cost claim activity or requests for prior approval of surgeries or other expensive procedures. Too often, people whose policies are rescinded critically need health care and will be harmed by losing the access to care and ability to finance care provided by insurance coverage.

### **Need for Increased Accountability and Oversight**

As part of an investigation into the practice of health insurance rescission, Congressman Henry Waxman asked state regulators to produce information on rescission rates in the individual market. In its response to Congressman Waxman’s inquiry, TDI did a data call to companies writing individual policies from 2003-2007 and reviewed consumer complaints received by TDI during that time period. From 2003-2007, TDI received seven complaints

about policy rescissions, only one of which was determined justified.

TDI compiled responses from health plans that had at least 250 policies in force and submitted the results to Congressman Waxman. The data show about 1,500 rescissions in 2006 and 1,700 in 2007—or about 0.3 percent of all policies rescinded.

Both the low number of complaints received by TDI and the low overall percentage of policies rescinded mask at least one extreme outlier in the data. One company writing individual health insurance in Texas reported rescinding between 10 and 24 percent of its policies in each year from 2003-2007. Based on data collected by TDI in response to the Congressional inquiry, TDI has opened at least three enforcement cases related to rescission. When TDI has access to rescission information, it can identify troubling rescission rates and better protect consumers.

### **SB 206 and 207**

SB 206 requires insurance companies to periodically report rescission rates and related information to TDI. TDI must make the data available online. TDI must also provide an online form and a toll-free number to allow consumers to file rescission-related complaints. SB 207 prohibits health insurance companies from paying bonuses or setting

quotas related to the number of policies identified for rescission. Together, SB 206 and 2007 increase TDI's ability to monitor rescission activity and decrease potential incentives within the insurance industry that lead to more rescissions.

Consumers have a responsibility to fill out health insurance applications completely and accurately. Rescission is one tool insurance companies can use to hold policyholders accountable for making willful, material misrepresentations about their health status on an application. But because rescission can have such a profound effect on a policyholders' health status and their ability to access care, health insurance companies should also be held accountable to ensure that rescissions are rare and justified. SB 206 and 207 help create a balance needed around rescission.