Health insurance-like products with few or no consumer protections *increase* the cost of coverage for small businesses & Texans with preexisting conditions

Insurance-like coverage that poses serious risks:

HB 3924/SB 1973 - Farm Bureau plans
HB 3923; HB 3911/SB 1861; SB 1471 – Multiple employer welfare arrangements (MEWAs or association plans)
HB 1369 - Health care sharing organizations
HB 3752 - Texas Mutual plans

Our organizations are committed to increasing access to adequate health insurance coverage for individuals and small businesses so Texans can live healthy lives and avoid financial calamity when sick or injured.

Several bills this session create or expand "insurance-like" coverage that is exempt from or subject to far fewer state and federal health insurance laws. Insurance-like coverage poses a threat to the 28% of Texans with pre-existing conditions,[1] and to the stability of the Texas insurance market itself.

Insurance-like plans will drive up costs, including for people with pre-existing conditions and small employers

- These plans can cherry-pick healthy customers and employer groups. This is something that other Texas insurers can't do. This drives up costs for other privately insured consumers and small businesses as healthier people are siphoned out of the risk pool.[2]
- These plans can cherry-pick either directly – by rejecting people with a history of illness or charging them more – or indirectly – by excluding care for preexisting conditions, not offering "essential health benefits," and charging more based on gender, age, size of business, and type of business.

Insurance-like plans aren't a bargain when you get sick or injured

- Insurance-like products can have big gaps in covered benefits that expose people to catastrophic costs and medical debt when they get sick. In addition, non-insurance products can have lifetime or annual limits on coverage, and aren't subject to a cap on total annual out-of-pocket costs for consumers.

Leading patient advocacy groups have sounded the alarm about insurance-like plans

- A recent report from 30 leading patient advocacy groups, including the American Cancer Society and American Diabetes Association, details how insurance-like plans harm patients and insurance markets.[3]

Association health plan/MEWA bills couldn't be implemented today, even if passed

- These bills seek to align state law with federal rules that were vacated by a federal district court in 2019. The appeal has been placed on hold and the Biden Administration may rescind or amend the rules.
- Key changes in the bill are preempted under ERISA, a fact confirmed in a recent Texas Department consent order (#2020-6570) with a MEWA selling coverage inconsistent with ERISA.

[1] https://www.kff.org/health-reform/issue-brief/pre-existing-condition-prevalence-for-individuals-and-families/.
[2] https://www.shadac.org/news/alternatives-aca-compliant-plans-individual-market .
[3] https://www.lls.org/sites/default/files/National/undercovered_report.pdf

MEWA bills erode the already-insufficient state guardrails for a type of coverage notorious for fraud, abuse, unpaid medical bills, and insolvency

- The National Association of Insurance Commissioners describes MEWAs as “notoriously prone to insolvencies,” and notes that “[w]hile the promise of MEWAs has always been to give small employers access to low cost health coverage on terms similar to those available to large employers, that promise has never been the reality.”[4]
- According to a former Insurance Commissioner, TDI can shut down fraudulent MEWAs, but “normally cannot do so until after they have already done a great deal of damage to the public.”[5]

Farm Bureau and Texas Mutual plans would not be regulated as insurance, even though they’d operate like it

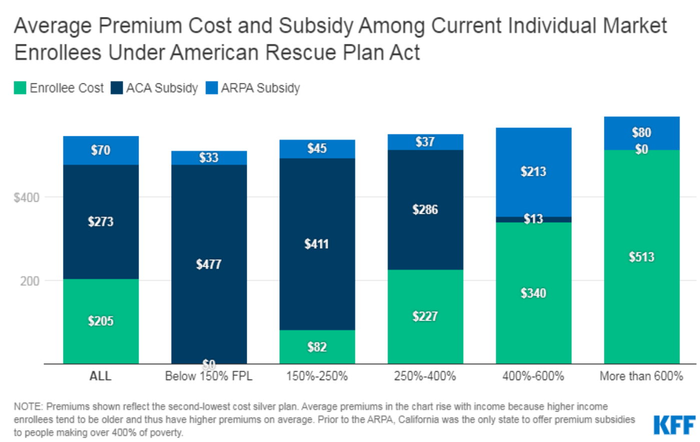
- Several bills create new products – Farm Bureau plans, Texas Mutual plans, and health care sharing organizations – that are explicitly exempted from all state federal standards for health insurance.
- These plans won’t have to adhere the consumer-protection laws that Texas Legislators have focused on in recent sessions and that other insurers have to follow like protections for surprise medical billing, network adequacy, the “prudent layperson standard,” mental health parity, and prompt pay.
- If these plans engage in harmful activities prohibited under law for insurers, there is no recourse for consumers and no ability to complain to TDI.

Only 5 states have approved Farm Bureau plans. They drive up premiums and limit coverage for preexisting conditions, which 2-in-3 farmers and ranchers report having[6]

- Farm Bureau plans have significantly hurt the individual market in Tennessee, which has the worst risk score (highest cost enrollees) and some of the highest rate increases in the nation.[7]
- In Iowa, Farm Bureau plans have a lifetime benefit cap on coverage, and exclude coverage for some categories of benefits.[8] In Kansas and Tennessee, some Farm Bureau family plans cap prescription drug benefits at $7,500 per year per person.
- Farm Bureau plans can and do discrimination against people with preexisting conditions by denying coverage, charging higher premiums or excluding treatment for preexisting conditions.

Affordability for small businesses and individuals is an issue. Recent changes provide better options

- A new state rule lets associations of small employers buy fully-insured, large employer coverage. It conveys many of the purported benefits of association health plans, but without the threat of fraud and insolvency.
- The new American Rescue Plan Act makes Health Insurance Marketplace plans substantially more affordable for many Texans, including self-employed individuals, for two years. See chart.[9]



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[4] https://naic.org/documents/index_health_reform_section_180306_comments_assoc_plan_nprm.pdf
[5] https://www.finance.senate.gov/imo/media/doc/030304jmtest.pdf
[6] https://www.lls.org/sites/default/files/National/undercovered_report.pdf
[7] http://www.communityplans.net/wp-content/uploads/2018/04/Wakely-Short-Term-Limited-Duration-Plans-Report.pdf
[8] https://www.iowafbhealthplan.com/page/file?path=Files%2Fwebsite%2FFiles%2FM9319667_07_20.pdf
[9] https://www.kff.org/health-reform/issue-brief/how-the-american-rescue-plan-act-affects-subsidies-for-marketplace-shoppers-and-people-who-are-uninsured/