

By: Walle

H.B. No. 1907

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a statewide all payor claims database to increase public transparency of health care data and improve quality of health care in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TEXAS ALL PAYOR CLAIMS DATABASE

Sec. 38.401. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to authorize the department to establish an all payor claims database in this state to increase public transparency of health care information and improve the quality of health care in this state.

Sec. 38.402. DEFINITIONS. In this subchapter:

(1) "Allowed amount" means the amount of a billed charge that a health benefit plan issuer determines to be covered for services provided by a non-network provider. The allowed amount includes both the insurer's payment and any applicable deductible, copayment, or coinsurance amounts for which the insured is responsible.

(2) "Center" means the Center for Healthcare Data at The University of Texas Health Science Center at Houston.

(3) "Contracted rate" means the fee or reimbursement amount for a network provider's services, treatments, or supplies

1 as established by agreement between the provider and health benefit
2 plan issuer.

3 (4) "Data" means the specific claims and encounters,
4 enrollment, and benefit information submitted to the center under
5 this subchapter.

6 (5) "Database" means the Texas All Payor Claims
7 Database established under this subchapter.

8 (6) "Geozip" means an area that includes all zip codes
9 with identical first three digits.

10 (7) "Payor" means any of the following entities that
11 pay, reimburse, or otherwise contract with a health care provider
12 for the provision of health care services, supplies, or devices to a
13 patient:

14 (A) an insurance company providing health or
15 dental insurance;

16 (B) the sponsor or administrator of a health or
17 dental plan;

18 (C) a health maintenance organization operating
19 under Chapter 843;

20 (D) the state Medicaid program, including the
21 Medicaid managed care program operating under Chapter 533,
22 Government Code;

23 (E) a health benefit plan offered or administered
24 by or on behalf of this state or a political subdivision of this
25 state or an agency or instrumentality of the state or a political
26 subdivision of this state, including:

27 (i) a basic coverage plan under Chapter

1 1551;

2 (ii) a basic plan under Chapter 1575; and

3 (iii) a primary care coverage plan under

4 Chapter 1579; or

5 (F) any other entity providing a health insurance
6 or health benefit plan subject to regulation by the department.

7 (8) "Protected health information" has the meaning
8 assigned by 45 C.F.R. Section 160.103.

9 (9) "Qualified research entity" means:

10 (A) an organization engaging in public interest
11 research for the purpose of analyzing the delivery of health care in
12 this state that is exempt from federal income tax under Section
13 501(a), Internal Revenue Code of 1986, by being listed as an exempt
14 organization in Section 501(c)(3) of that code;

15 (B) an institution of higher education engaged in
16 public interest research related to the delivery of health care in
17 this state; or

18 (C) a health care provider in this state engaging
19 in efforts to improve the quality and cost of health care.

20 (10) "Stakeholder advisory group" means the
21 stakeholder advisory group established under Section 38.403.

22 Sec. 38.403. STAKEHOLDER ADVISORY GROUP. (a) The center
23 shall establish a stakeholder advisory group to assist the center
24 as provided by this subchapter, including assistance in:

25 (1) establishing and updating the standards,
26 requirements, policies, and procedures relating to the collection
27 and use of data contained in the database required by Sections

1 38.404(e) and (f);

2 (2) evaluating and prioritizing the types of reports
3 the center should publish under Section 38.404(e);

4 (3) evaluating data requests from qualified research
5 entities under Section 38.404(e)(2); and

6 (4) assisting the center in developing the center's
7 recommendations under Section 38.408(3).

8 (b) The advisory group created under this section must be
9 composed of:

10 (1) the state Medicaid director or the director's
11 designee;

12 (2) a member designated by the Teacher Retirement
13 System of Texas;

14 (3) a member designated by the Employees Retirement
15 System of Texas; and

16 (4) 12 members designated by the center, including:

17 (A) two members representing the business
18 community, with at least one of those members representing small
19 businesses that purchase health benefits but are not involved in
20 the provision of health care services, supplies, or devices or
21 health benefit plans;

22 (B) two members who represent consumers and who
23 are not professionally involved in the purchase, provision,
24 administration, or review of health care services, supplies, or
25 devices or health benefit plans, with at least one member
26 representing the behavioral health community;

27 (C) two members representing hospitals that are

1 licensed in this state;

2 (D) two members representing health benefit plan
3 issuers that are regulated by the department;

4 (E) two members who are physicians licensed to
5 practice medicine in this state, one of whom is a primary care
6 physician; and

7 (F) two members who are not professionally
8 involved in the purchase, provision, administration, or review of
9 health care services, supplies, or devices or health benefit plans
10 and who have expertise in:

11 (i) health planning;

12 (ii) health economics;

13 (iii) provider quality assurance;

14 (iv) statistics or health data management;

15 or

16 (v) medical privacy laws.

17 (c) A person serving on the stakeholder advisory group must
18 disclose any conflict of interest.

19 (d) Members of the stakeholder advisory group serve fixed
20 terms as prescribed by commissioner rules adopted under this
21 subchapter.

22 Sec. 38.404. ESTABLISHMENT AND ADMINISTRATION OF DATABASE.

23 (a) The department shall collaborate with the center under this
24 subchapter to aid in the center's establishment of the database.
25 The center shall leverage the existing resources and infrastructure
26 of the center to establish the database to collect, process,
27 analyze, and store data relating to medical, dental,

1 pharmaceutical, and other relevant health care claims and
2 encounters, enrollment, and benefit information for the purposes of
3 increasing transparency of health care costs, utilization, and
4 access and improving the affordability, availability, and quality
5 of health care in this state, including by improving population
6 health in this state.

7 (b) The center shall serve as the administrator of the
8 database, design, build, and secure the database infrastructure,
9 and determine the accuracy of the data submitted for inclusion in
10 the database.

11 (c) In determining the information a payor is required to
12 submit to the center under this subchapter, the center must
13 consider requiring inclusion of information useful to health policy
14 makers, employers, and consumers for purposes of improving health
15 care quality and outcomes, improving population health, and
16 controlling health care costs. The required information at a
17 minimum must include the following information as it relates to all
18 health care services, supplies, and devices paid or otherwise
19 adjudicated by the payor:

20 (1) the name and National Provider Identifier, as
21 described in 45 C.F.R. Section 162.410, of each health care
22 provider paid by the payor;

23 (2) the claim line detail that documents the health
24 care services, supplies, or devices provided by the health care
25 provider;

26 (3) the amount of charges billed by the health care
27 provider and the payor's:

1 (A) allowed amount or contracted rate for the
2 health care services, supplies, or devices; and

3 (B) adjudicated claim amount for the health care
4 services, supplies, or devices;

5 (4) the name of the payor, the name of the health
6 benefit plan, and the type of health benefit plan, including
7 whether health care services, supplies, or devices were provided to
8 an individual through:

9 (A) a Medicaid or Medicare program;

10 (B) workers' compensation insurance;

11 (C) a health maintenance organization operating
12 under Chapter 843;

13 (D) a preferred provider benefit plan offered by
14 an insurer under Chapter 1301;

15 (E) a basic coverage plan under Chapter 1551;

16 (F) a basic plan under Chapter 1575;

17 (G) a primary care coverage plan under Chapter
18 1579; or

19 (H) a health benefit plan that is subject to the
20 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
21 1001 et seq.); and

22 (5) claim level information that allows the center to
23 identify the geozip where the health care services, supplies, or
24 devices were provided.

25 (d) Each payor shall submit the required data under
26 Subsection (c) at a schedule and frequency determined by the center
27 and adopted by the commissioner by rule.

1 (e) In the manner and subject to the standards,
2 requirements, policies, and procedures relating to the use of data
3 contained in the database established by the center in consultation
4 with the stakeholder advisory group, the center may use the data
5 contained in the database for a noncommercial purpose:

6 (1) to produce statewide, regional, and geozip
7 consumer reports available through the public access portal
8 described in Section 38.405 that address:

9 (A) health care costs, quality, utilization,
10 outcomes, and disparities;

11 (B) population health; or

12 (C) the availability of health care services; and

13 (2) for research and other analysis conducted by the
14 center or a qualified research entity to the extent that such use is
15 consistent with all applicable federal and state law, including the
16 data privacy and security requirements of Section 38.406 and the
17 purposes of this subchapter.

18 (f) The center shall establish data collection procedures
19 and evaluate and update data collection procedures established
20 under this section. The center shall test the quality of data
21 collected by and reported to the center under this section to ensure
22 that the data is accurate, reliable, and complete.

23 Sec. 38.405. PUBLIC ACCESS PORTAL. (a) Except as provided
24 by this section and Sections 38.404 and 38.406 and in a manner
25 consistent with all applicable federal and state law, the center
26 shall collect, compile, and analyze data submitted to or stored in
27 the database and disseminate the information described in Section

1 38.404(e)(1) in a format that allows the public to easily access and
2 navigate the information. The information must be accessible
3 through an open access Internet portal that may be accessed by the
4 public through an Internet website.

5 (b) The portal created under this section must allow the
6 public to easily search and retrieve the information disseminated
7 under Subsection (a), subject to data privacy and security
8 restrictions described in this subchapter and consistent with all
9 applicable federal and state law.

10 (c) Any information or data that is accessible through the
11 portal created under this section:

12 (1) must be segmented by type of insurance or health
13 benefit plan in a manner that does not combine payment rates
14 relating to different types of insurance or health benefit plans;

15 (2) must be aggregated by like Current Procedural
16 Terminology codes and health care services in a statewide,
17 regional, or geozip area; and

18 (3) may not identify a specific patient, health care
19 provider, health benefit plan, health benefit plan issuer, or other
20 payor.

21 (d) Before making information or data accessible through
22 the portal, the center shall remove any data or information that may
23 identify a specific patient in accordance with the
24 de-identification standards described in 45 C.F.R. Section
25 164.514.

26 Sec. 38.406. DATA PRIVACY AND SECURITY. (a) Any
27 information that may identify a patient, health care provider,

1 health benefit plan, health benefit plan issuer, or other payor is
2 confidential and subject to applicable state and federal law
3 relating to records privacy and protected health information,
4 including Chapter 181, Health and Safety Code, and is not subject to
5 disclosure under Chapter 552, Government Code.

6 (b) A qualified research entity with access to data or
7 information that is contained in the database but not accessible
8 through the portal described in Section 38.405:

9 (1) may use information contained in the database only
10 for purposes consistent with the purposes of this subchapter and
11 must use the information in accordance with standards,
12 requirements, policies, and procedures established by the center in
13 consultation with the stakeholder advisory group;

14 (2) may not sell or share any information contained in
15 the database; and

16 (3) may not use the information contained in the
17 database for a commercial purpose.

18 (c) A qualified research entity with access to information
19 that is contained in the database but not accessible through the
20 portal must execute an agreement with the center relating to the
21 qualified research entity's compliance with the requirements of
22 Subsections (a) and (b), including the confidentiality of
23 information contained in the database but not accessible through
24 the portal.

25 (d) Notwithstanding any provision of this subchapter, the
26 department and the center may not disclose an individual's
27 protected health information in violation of any state or federal

1 law.

2 (e) The center shall include in the database only the
3 minimum amount of protected health information identifiers
4 necessary to link public and private data sources and the
5 geographic and services data to undertake studies.

6 (f) The center shall maintain protected health information
7 identifiers collected under this subchapter but excluded from the
8 database under Subsection (e) in a separate database. The separate
9 database may not be aggregated with any other information and must
10 use a proxy or encrypted record identifier for analysis.

11 Sec. 38.407. CERTAIN ENTITIES NOT REQUIRED TO SUBMIT DATA.
12 Any sponsor or administrator of a health benefit plan subject to the
13 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
14 1001 et seq.) may elect or decline to participate in or submit data
15 to the center for inclusion in the database as consistent with
16 federal law.

17 Sec. 38.408. REPORT TO LEGISLATURE. Not later than
18 September 1 of each even-numbered year, the center shall submit to
19 the legislature a written report containing:

20 (1) an analysis of the data submitted to the center for
21 use in the database;

22 (2) information regarding the submission of data to
23 the center for use in the database and the maintenance, analysis,
24 and use of the data;

25 (3) recommendations from the center, in consultation
26 with the stakeholder advisory group, to further improve the
27 transparency, cost-effectiveness, accessibility, and quality of

1 health care in this state; and

2 (4) an analysis of the trends of health care
3 affordability, availability, quality, and utilization.

4 Sec. 38.409. RULES. (a) The commissioner, in consultation
5 with the center, shall adopt rules:

6 (1) specifying the types of data a payor is required to
7 provide to the center under Section 38.404 to determine health
8 benefits costs and other reporting metrics, including, if
9 necessary, types of data not expressly identified in that section;

10 (2) specifying the schedule, frequency, and manner in
11 which a payor must provide data to the center under Section 38.404,
12 which must:

13 (A) require the payor to provide data to the
14 center not less frequently than quarterly; and

15 (B) include provisions relating to data layout,
16 data governance, historical data, data submission, use and sharing,
17 information security, and privacy protection in data submissions;
18 and

19 (3) establishing oversight and enforcement mechanisms
20 to ensure that payors submit data to the database in accordance with
21 this subchapter.

22 (b) In adopting rules governing methods for data
23 submission, the commissioner shall to the maximum extent
24 practicable use methods that are reasonable and cost-effective for
25 payors.

26 SECTION 2. (a) Not later than January 1, 2022, the Center
27 for Healthcare Data at The University of Texas Health Science

1 Center at Houston shall establish the stakeholder advisory group in
2 accordance with Section 38.403, Insurance Code, as added by this
3 Act.

4 (b) Not later than June 1, 2022, the Texas Department of
5 Insurance shall adopt rules, and the Center for Healthcare Data at
6 The University of Texas Health Science Center at Houston shall
7 adopt, in consultation with the stakeholder advisory group,
8 standards, requirements, policies, and procedures, necessary to
9 implement Subchapter I, Chapter 38, Insurance Code, as added by
10 this Act.

11 SECTION 3. As soon as practicable after the effective date
12 of this Act, the Center for Healthcare Data at The University of
13 Texas Health Science Center at Houston shall actively seek
14 financial support from the federal grant program for development of
15 state all payer claims databases established under the Consolidated
16 Appropriations Act, 2021 (Pub. L. No. 116-260) and from any other
17 available source of financial support provided by the federal
18 government for purposes of implementing Subchapter I, Chapter 38,
19 Insurance Code, as added by this Act.

20 SECTION 4. If before implementing any provision of
21 Subchapter I, Chapter 38, Insurance Code, as added by this Act, the
22 commissioner of insurance determines that a waiver or authorization
23 from a federal agency is necessary for implementation of that
24 provision, the commissioner shall request the waiver or
25 authorization and may delay implementing that provision until the
26 waiver or authorization is granted.

27 SECTION 5. This Act takes effect September 1, 2021.