

By: Oliverson

H.B. No. 1527

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the relationship between dentists and certain employee
3 benefit plans and health insurers.

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

5 SECTION 1. Section 1451.206, Insurance Code, is amended by
6 adding Subsections (d) and (e) to read as follows:

7 (d) An employee benefit plan or health insurance policy
8 provider or issuer may not recover an overpayment made to a dentist
9 unless:

10 (1) not later than the 180th day after the date the
11 dentist receives the payment, the provider or issuer provides
12 written notice of the overpayment to the dentist that includes the
13 basis and specific reasons for the request for recovery of funds;
14 and

15 (2) the dentist:

16 (A) fails to provide a written objection to the
17 request for recovery of funds and does not make arrangements for
18 repayment of the requested funds on or before the 45th day after the
19 date the dentist receives the notice; or

20 (B) objects to the request in accordance with the
21 procedure described by Subsection (e) and exhausts all rights of
22 appeal.

23 (e) An employee benefit plan or health insurance policy
24 provider or issuer shall provide a dentist with the opportunity to

1 challenge an overpayment recovery request and establish written
2 policies and procedures for a dentist to object to an overpayment
3 recovery request. The procedures must allow the dentist to access
4 the claims information in dispute.

5 SECTION 2. Section 1451.2065, Insurance Code, is amended to
6 read as follows:

7 Sec. 1451.2065. CONTRACTS WITH DENTISTS. (a) In this
8 section:

9 (1) "Covered [~~,"covered~~] service" means a dental care
10 service for which reimbursement is available under a patient's
11 employee benefit plan or health insurance policy, or for which
12 reimbursement is available subject to a contractual limitation,
13 including:

- 14 (A) [~~(1)~~] a deductible;
15 (B) [~~(2)~~] a copayment;
16 (C) [~~(3)~~] coinsurance;
17 (D) [~~(4)~~] a waiting period;
18 (E) [~~(5)~~] an annual or lifetime maximum limit;
19 (F) [~~(6)~~] a frequency limitation; or
20 (G) [~~(7)~~] an alternative benefit payment.

21 (2) "Insurer" means a provider or issuer of an
22 employee benefit plan or health insurance policy.

23 (b) A contract between an insurer and a dentist may not:

24 (1) limit the fee the dentist may charge for a service
25 that is not a covered service; or

26 (2) include a provision that:

27 (A) allows the insurer to deny payment to the

1 dentist for a covered service provided to a patient; and

2 (B) prohibits the dentist from billing for and
3 collecting the amount owed for the service from the patient.

4 SECTION 3. Subchapter E, Chapter 1451, Insurance Code, is
5 amended by adding Section 1451.209 to read as follows:

6 Sec. 1451.209. REQUIREMENTS FOR THIRD PARTY ACCESS TO
7 PROVIDER NETWORKS. (a) At the time a provider network contract is
8 entered into or when material modifications are made to the
9 contract relevant to granting a third party access to the contract,
10 an employee benefit plan or health insurance policy provider or
11 issuer shall allow any dentist that is part of the provider network
12 to elect not to participate in the third party access to the
13 contract and to elect not to enter into a contract directly with the
14 third party that will obtain access to the provider network. This
15 subsection does not permit the plan or policy provider or issuer to
16 cancel or otherwise end a contractual relationship with a dentist
17 if the dentist elects to not participate in or agree to third party
18 access to the provider network contract.

19 (b) An employee benefit plan or health insurance policy
20 provider or issuer that enters into a provider network contract
21 with a dentist, or a contracting entity that has leased or acquired
22 the provider network contract, may grant a third party access to the
23 provider network contract or to a dentist's dental care services or
24 contractual discounts provided under the contract only if:

25 (1) the provider network contract or each employee
26 benefit plan or health insurance policy for which the provider
27 network contract was entered into, leased, or acquired

1 conspicuously states that the provider or issuer or contracting
2 entity may enter into an agreement with a third party that allows
3 the third party to obtain the provider's, issuer's, or contracting
4 entity's rights and responsibilities as if the third party were the
5 provider, issuer, or contracting entity;

6 (2) if the contracting entity is an employee benefit
7 plan or health insurance policy provider or issuer, the entity's
8 plan or policy for which the provider network contract is leased or
9 acquired conspicuously states, in addition to the language required
10 by Subdivision (1), that the dentist may elect not to participate in
11 third party access to the provider network contract:

12 (A) at the time the provider network contract is
13 entered into; or

14 (B) when there are material modifications to the
15 provider network contract relevant to granting a third party access
16 to the provider network contract;

17 (3) the third party accessing the provider network
18 contract agrees to comply with all of the original contract's
19 terms, including the contracted fee schedule and obligations
20 concerning patient steerage;

21 (4) the provider, issuer, or other contracting entity
22 provides in writing to the dentist the names of all third parties
23 with access to the provider network in existence as of the date the
24 contract is entered into;

25 (5) the provider, issuer, or other contracting entity
26 identifies all current third parties with access to the provider
27 network on its Internet website with a list updated at least once

1 every 90 days;

2 (6) the provider, issuer, or other contracting entity
3 requires a third party with access to the provider network to
4 identify the source of any discount on all remittance advices or
5 explanations of payment under which a discount is taken, provided
6 that this subsection does not apply to electronic transactions
7 mandated by the Health Insurance Portability and Accountability Act
8 of 1996 (Pub. L. No. 104-191);

9 (7) the provider, issuer, or other contracting entity
10 provides written or electronic notice to network dentists that a
11 third party will lease, acquire, or obtain access to the provider
12 network at least 30 days before the lease or access takes effect;

13 (8) the provider, issuer, or other contracting entity
14 provides written or electronic notice to network dentists of the
15 termination of the provider network contract at least 30 days
16 before the termination date;

17 (9) a third party's right to a dentist's discounted
18 rate ceases as of the termination date of the provider network
19 contract; and

20 (10) the provider, issuer, or other contracting entity
21 makes available a copy of the provider network contract relied on in
22 the adjudication of a claim to a network dentist not later than the
23 30th day after the date the dentist requests a copy of that
24 contract.

25 (c) Subsections (b)(7) and (8) do not apply to a contracting
26 entity that only organizes and leases networks but does not engage
27 in the business of insurance.

1 (d) A person may not bind or require a dentist to perform
2 dental care services under a provider network contract that has
3 been sold, leased, or assigned to a third party or for which a third
4 party has otherwise obtained provider network access in violation
5 of this section.

6 (e) This section does not apply:

7 (1) if access to a provider network contract is
8 granted to:

9 (A) a third party operating in accordance with
10 the same brand licensee program as the employee benefit plan
11 provider, health insurance policy issuer, or other contracting
12 entity selling or leasing the provider network contract, provided
13 that the third party accessing the provider network contract agrees
14 to comply with all of the original contract's terms, including the
15 contracted fee schedule and obligations concerning patient
16 steerage; or

17 (B) an entity that is an affiliate of the
18 employee benefit plan provider, health insurance policy issuer, or
19 other contracting entity selling or leasing the provider network
20 contract, provided that:

21 (i) the provider, issuer, or entity
22 publicly discloses the names of the affiliates on its Internet
23 website; and

24 (ii) the affiliate accessing the provider
25 network contract agrees to comply with all of the original
26 contract's terms, including the contracted fee schedule and
27 obligations concerning patient steerage;

1 (2) to the child health plan program under Chapter 62,
2 Health and Safety Code, or the health benefits plan for children
3 under Chapter 63, Health and Safety Code; or

4 (3) to a Medicaid managed care program operated under
5 Chapter 533, Government Code, or a Medicaid program operated under
6 Chapter 32, Human Resources Code.

7 SECTION 4. The changes in law made by this Act apply only to
8 an employee benefit plan for a plan year that commences on or after
9 January 1, 2024, or a health insurance policy delivered, issued for
10 delivery, or renewed on or after January 1, 2024, and any provider
11 network contract entered into on or after the effective date of this
12 Act in connection with one of those plans or policies. An employee
13 benefit plan for a plan year that commenced before January 1, 2024,
14 or a health insurance policy delivered, issued for delivery, or
15 renewed before January 1, 2024, and any provider network contract
16 entered into before, on, or after the effective date of this Act in
17 connection with one of those plans or policies is governed by the
18 law as it existed immediately before the effective date of this Act,
19 and that law is continued in effect for that purpose.

20 SECTION 5. This Act takes effect September 1, 2023.