

By: Van de Putte

S.B. No. 1313

A BILL TO BE ENTITLED

AN ACT

relating to balance billing by facility based physicians or providers.

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

SECTION 1. Article 20A.09, Insurance Code, as amended by Chapter 837, Chapter 905 and Chapter 1023, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(f) If medically necessary covered services are not available through network physicians or providers, or if network facilities provide or arrange to provide services to enrollees through non-network physicians or providers, then the health maintenance organization, on the request of a network physician or provider, within a reasonable period, shall allow referral to a non-network physician or provider and shall fully reimburse the non-network physician or provider at the usual and customary or an agreed rate. The network provider must ensure through contract, indemnity or otherwise, that the enrollee is held harmless for the payment of the cost of covered services provided by the non-network physician or provider except for applicable copayments and deductibles. The evidence of coverage must provide for a review by a specialist of the same specialty or a similar specialty as the type of physician or provider to whom a referral is requested before the health maintenance organization may deny a referral.

SECTION 2. Article 20A.09, Insurance Code, as amended by

Chapter 163, Chapter 837, Chapter 1023 and Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(C) a provision that, if medically necessary covered services are not available through network physicians or providers, or if network facilities provide or arrange to provide services to enrollees through non-network physicians or providers, then the health maintenance organization must, on the request of a network physician or provider, within a reasonable time period allow referral to a non-network physician or provider and shall fully reimburse the non-network physician or provider at the usual and customary or an agreed rate. The network provider must ensure, through contract, indemnity or otherwise, that the enrollee is held harmless for the payment of the cost of covered services provided by the non-network physician or provider except for applicable copayments and deductibles; each contract must further provide for a review by a specialist of the same or a similar specialty as the physician or provider to whom a referral is requested before the health maintenance organization may deny a referral;

SECTION 3. Article 20A.18A., Insurance Code, as amended by Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(g) All contracts or other agreements between a health maintenance organization and a physician or provider shall specify that the physician or provider will hold an enrollee harmless for payment of the cost of covered health care services in the event the health maintenance organization fails to pay the provider for

1 health care services, and shall further specify that the provider  
2 shall require its subcontracted physicians and providers to honor  
3 such hold harmless agreement.

4 SECTION 4. Article 20A.18F, Insurance Code, as amended by  
5 Chapter 550, Acts of the 77th Legislature, Regular Session, 2001,  
6 is amended to read as follows:

7 (a) Each contract between a health maintenance organization  
8 and a limited provider network or delegated entity must provide  
9 that if medically necessary covered services are not available  
10 through network physicians or providers, the limited provider  
11 network or delegated entity must, on request of a network physician  
12 or provider, allow a referral to a non-network physician or  
13 provider and shall fully reimburse the non-network provider at the  
14 usual and customary or an agreed-upon rate. All contracts or other  
15 agreements between a health maintenance organization and a limited  
16 provider network provider network or delegated entity shall specify  
17 that the physician or provider who holds a contract with the limited  
18 provider network or delegated entity shall hold an enrollee  
19 harmless for payment of the cost of covered health care services in  
20 the event the health maintenance organization fails to pay the  
21 limited provider network or delegated entity for health care  
22 services and shall further specify that the limited provider  
23 network or delegated entity shall require its subcontracted  
24 physicians and providers to honor such hold harmless agreement.

25 SECTION 5. Sec. 3, Article 3.70-3C, Insurance Code, as  
26 added by Chapter 1024, Acts of the 75th Legislature, Regular  
27 Session, 1997, is amended by adding Subparagraph (p) to read as

1 follows:

2       (p) A preferred provider contract between an insurer and a  
3 preferred provider must contain a provision that states if the  
4 preferred provider provides or arranges to provide services to  
5 insureds through non-network physicians or providers, then the  
6 preferred provider must ensure through contract, indemnity or  
7 otherwise, that the insured is held harmless for the payment of the  
8 cost of covered services provided by the non-network physician or  
9 non-network provider except for applicable copayments, coinsurance  
10 and deductibles.

11       SECTION 6. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2003.