BILL ANALYSIS

Senate Research Center
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S.B. 698
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Although a hospital or other facility may be a network provider under a managed care health benefit plan, physicians and other health care providers, who provide services through such a network facility, may not be contracted with the network. Current Texas law states that these non-contracted providers may bill an enrollee of the health benefit plan for any balance of charges over the allowed amount paid by the health benefit plan, in addition to any required deductibles, copayments, or coinsurance. Often, the enrollee is not aware that the providers are not members of the network to which the facility belongs until the enrollee's balance is billed by the providers, creating a financial hardship to the enrollee.

As proposed, S.B. 698 limits the ability of non-contracted providers to balance bill enrollees for charges not paid by the health benefit plan. It makes it an act of unprofessional conduct for a provider covered by this legislation to fail to provide required notices to an enrollee or to bill the balance if the provider agrees to accept an agreed rate of payment or payment at usual and customary rates from the health benefit plan, and imposes penalties for such conduct.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1204.051, Insurance Code, as effective April 1, 2005, as follows:

> Sec. 1204.051. DEFINITIONS. Defines "facility" and "facility-based physician or health care provider." Provides that for the purposes of this chapter, a member of the medical staff of a health care facility is not a "facility-based health care provider" solely because the member is appointed to the facility's medical staff and granted clinical privileges by the facility.

SECTION 2. Amends Section 1204.052, Insurance Code, effective April 1, 2005, to provide that this subchapter does not apply to a facility-based physician or health care provider.

SECTION 3. Amends Chapter 1204, Insurance Code, as effective April 1, 2005, by adding Subchapter G, as follows:

> SUBCHAPTER G. RESTRICTIONS ON CERTAIN BALANCE BILLING
>
> Sec. 1204.301. APPLICABILITY OF DEFINITIONS. Provides that in this subchapter, terms defined by Section 1204.051 have the meanings assigned by that section.
>
> Sec. 1204.302. APPLICABILITY TO CERTAIN PLANS OR PROGRAMS. Sets forth the applicable benefit programs and insurance coverages covered by this subchapter.
>
> Sec. 1204.303. RESTRICTIONS ON BALANCE BILLING. Prohibits a facility-based physician (physician) or health care provider (provider), in connection with the provision of health care services to a covered person, from billing the person for any amount above the copayment, coinsurance, or deductible if the physician or provider accepts the usual rate or an agreed rate of payment for healthcare services from the insurer or plan, or if

they fail to provide the disclosure required under Section (a)(3) (Unprofessional Conduct), Occupations Code.

SECTION 4. Amends Section 1271.001, Insurance Code, effective April 1, 2005, as follows:

Sec. 1271.001. New heading: DEFINITIONS. Defines "facility" and "facility-based physician or provider." Provides that for the purposes of this chapter, a member of the medical staff of a health care facility is not a "facility-based provider" solely because the member is appointed to the facility's medical staff and granted clinical privileges by the facility.

SECTION 5. Amends Section 1271.055, Insurance Code, as effective April 1, 2005, by adding Subsections (d) and (e), as follows:

(d) Requires a facility that is a member of a health maintenance organization delivery network to make a reasonable attempt to provide enrollees with physicians or providers who are members of the network while the enrollee is receiving services from the facility.

(e) Provides that if professional services are provided to an enrollee by a physician or provider who is not a member of the health maintenance organization delivery network, on the health maintenance organization's payment to the physician or provider at the usual and customary rate as defined by the health care plan or an agreed rate for covered services, the enrollee is not liable for any further payments to the physician or provider except for payment of any applicable copayments, coinsurance, or deductibles for the covered services.

SECTION 6. Amends Section 1272.001(a), Insurance Code, as effective April 1, 2005, by adding Subdivisions (4-a) and (4-b), to define "facility" and "facility-based physician or provider."

SECTION 7. Amends Section 1272.001, Insurance Code, as effective April 1, 2005, by adding Subsection (c), to provide that for the purposes of this chapter, a member of the medical staff of a health care facility is not a "facility-based provider" solely because the member is appointed to the facility's medical staff and granted clinical privileges by the facility.

SECTION 8. Amends Section 1272.301, Insurance Code, as effective April 1, 2005, by adding Subsection (e), to provide that if a limited provider network or delegated entity provides or arranges to provide services to enrollees through a facility-based physician or provider who is not a member of the health maintenance organization delivery network, the enrollee is not liable for any further payments to the physician or provider except for payment of any applicable copayments, coinsurance, or deductibles for the covered services.

SECTION 9. (a) Amends Section 1301.001, Insurance Code, effective April 1, 2005, to define "facility" and "facility-based physician or health care provider." Provides that for the purposes of this chapter, a member of the medical staff of a health care facility is not a "facility-based health care provider" solely because the member is appointed to the facility's medical staff and granted clinical privileges by the facility.

(b) Repealer: Section 1, Chapter 214, Acts of the 78th Legislature, Regular Session, 2003.

(c) Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1301.001, Insurance Code, as set out in this section, gives effect to changes made by Section 1, Chapter 214, Acts of the 78th Legislature, Regular Session, 2003.

(d) Provides that to the extent of any conflict, this section prevails over another Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions and correction in enacted codes.

SECTION 10. Amends Subchapter D, Chapter 1301, Insurance Code, as effective April 1, 2005, by adding Section 1301.164, as follows:

Sec. 1301.164. BALANCE BILLING PROHIBITED. Provides that if health care services are provided to an insured in a facility that is part of the preferred provider network by a physician or provider, who is not a preferred provider, the insured is not liable for further payments except applicable copayments, coinsurance, or deductibles.

SECTION 11. Amends Section 105.001, Occupations Code, as follows:

Sec. 105.001. New heading: DEFINITIONS. Defines "facility-based physician or health care provider" and "licensing authority." Makes a nonsubstantive change.

SECTION 12. Amends Section 105.1002, Occupations Code, as follows:

Sec. 105.002. UNPROFESSIONAL CONDUCT. (a) Provides that a provider commits unprofessional conduct if the provider, in connection with the provider's professional activities or provision of professional services if the provider is not a member of the network of the contracted health maintenance organization, insurer, or preferred provider organization to which the facility at which the services are provided belongs, fails to disclose specific information in writing to a patient before providing professional services.

(b) Provides that a physician or provider commits unprofessional conduct for certain supplemental billing and failure to disclose the required information to the insured.

(c) Provides that in addition to other provisions of civil or criminal law, commission of unprofessional conduct constitutes cause for imposition by the appropriate licensing authority of an administrative penalty for a maximum of $500 for each day of violation and other appropriate disciplinary action. Makes conforming changes.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Makes application of Section 105.002, Occupations Code, as amended by this Act, prospective.

SECTION 15. Effective date: upon passage or September 1, 2005.