

By: Taylor

H.B. No. 3371

A BILL TO BE ENTITLED

AN ACT

relating to investigation of fraudulent claims by certain insurers  
and by health maintenance organizations.

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

SECTION 1. Section 3A, Article 3.70-3C, Insurance Code, as  
added by Chapter 1024, Acts of the 75th Legislature, Regular  
Session, 1997, is amended by adding Subsection (k-1) to read as  
follows:

(k-1) If, after receipt of an otherwise clean claim, an  
insurer has a reasonable basis to suspect the claim is fraudulent,  
not later than the 30th calendar day after the date the insurer  
receives the claim or, if the insurer has requested an attachment  
under Subsection (j) of this section, not later than the 15th day  
after the date the insurer receives the attachment, the insurer may  
submit a written request to the commissioner for an extension to  
investigate whether the claim is fraudulent and to determine if the  
claim is payable. The request must include the reason the insurer  
has not completed the fraud investigation, the nature of the  
investigation, the anticipated completion date of the  
investigation, and the amount of any partial payment made on the  
claim. A copy of the request must be sent to the claimant. On or  
before the fifth day after the date the commissioner receives a  
request under this subsection, the commissioner shall inform the  
insurer whether the request has been approved and, if so, the

1 specific amount of time of the extension. The commissioner may  
2 grant a request under this subsection only if the commissioner  
3 determines that there is a good faith and articulable reason to  
4 believe that the insurer is not obligated to pay some part or all of  
5 the claim and the investigation could not reasonably be completed  
6 before the insurer is otherwise required to determine whether the  
7 claim is payable. The insurer must identify and pay all sums the  
8 insurer is obligated to pay on the claim that are not subject to the  
9 extension requested under this subsection. A request under this  
10 subsection tolls the deadlines prescribed by Subsection (e) or (j)  
11 of this section for determining whether the claim is payable until:

12 (1) the fifth day after the date on which the  
13 commissioner denies the request; or

14 (2) the date specified by the commissioner in an order  
15 approving the request.

16 SECTION 2. Subchapter J, Chapter 843, Insurance Code, is  
17 amended by adding Section 843.3386 to read as follows:

18 Sec. 843.3386. FRAUD INVESTIGATION. (a) If, after receipt  
19 of an otherwise clean claim, a health maintenance organization has  
20 a reasonable basis to suspect the claim is fraudulent, not later  
21 than the 30th calendar day after the date the health maintenance  
22 organization receives the claim or, if the health maintenance  
23 organization has requested an attachment under Section 843.3385,  
24 not later than the 15th day after the date the health maintenance  
25 organization receives the attachment, the health maintenance  
26 organization may submit a written request to the commissioner for  
27 an extension to investigate whether the claim is fraudulent and to

1 determine if the claim is payable.

2 (b) The request must include:

3 (1) the reason the health maintenance organization has  
4 not completed the fraud investigation;

5 (2) the nature of the investigation;

6 (3) the anticipated completion date of the  
7 investigation; and

8 (4) the amount of any partial payment made on the  
9 claim.

10 (c) A copy of the request must be sent to the claimant.

11 (d) On or before the fifth day after the date the  
12 commissioner receives a request under this subsection, the  
13 commissioner shall inform the health maintenance organization  
14 whether the request has been approved and, if so, the specific  
15 amount of time of the extension. The commissioner may grant a  
16 request under this section only if the commissioner determines that  
17 there is a good faith and articulable reason to believe the health  
18 maintenance organization is not obligated to pay some part or all of  
19 the claim and the investigation could not reasonably be completed  
20 before the health maintenance organization is otherwise required to  
21 determine whether the claim is payable.

22 (e) The health maintenance organization must identify and  
23 pay all sums the health maintenance organization is obligated to  
24 pay on the claim that are not subject to the extension requested  
25 under this section.

26 (f) A request under this section tolls the deadlines  
27 prescribed by this subchapter for determining whether the claim is

1 payable until:

2 (1) the fifth day after the date on which the  
3 commissioner denies the request; or

4 (2) the date specified by the commissioner in an order  
5 approving the request.

6 SECTION 3. Subchapter C, Chapter 1301, Insurance Code, as  
7 effective April 1, 2005, is amended by adding Section 1301.1055 to  
8 read as follows:

9 Sec. 1301.1055. FRAUD INVESTIGATION. (a) If, after receipt  
10 of an otherwise clean claim, an insurer has a reasonable basis to  
11 suspect the claim is fraudulent, not later than the 30th calendar  
12 day after the date the insurer receives the claim or, if the insurer  
13 has requested an attachment under Section 1301.1054, not later than  
14 the 15th day after the date the insurer receives the attachment, the  
15 insurer may submit a written request to the commissioner for an  
16 extension to investigate whether the claim is fraudulent and to  
17 determine if the claim is payable.

18 (b) The request must include:

19 (1) the reason the insurer has not completed the fraud  
20 investigation;

21 (2) the nature of the investigation;

22 (3) the anticipated completion date of the  
23 investigation; and

24 (4) the amount of any partial payment made on the  
25 claim.

26 (c) A copy of the request must be sent to the claimant.

27 (d) On or before the fifth day after the date the

1 commissioner receives a request under this subsection, the  
2 commissioner shall inform the insurer whether the request has been  
3 approved and, if so, the specific amount of time of the extension.  
4 The commissioner may grant a request under this section only if the  
5 commissioner determines that there is a good faith and articulable  
6 reason to believe the insurer is not obligated to pay some part or  
7 all of the claim and the investigation could not reasonably be  
8 completed before the insurer is otherwise required to determine  
9 whether the claim is payable.

10 (e) The insurer must identify and pay all sums the insurer  
11 is obligated to pay on the claim that are not subject to the  
12 extension requested under this section.

13 (f) A request under this section tolls the deadlines  
14 prescribed by this subchapter for determining whether the claim is  
15 payable until:

16 (1) the fifth day after the date on which the  
17 commissioner denies the request; or

18 (2) the date specified by the commissioner in an order  
19 approving the request.

20 SECTION 4. (a) Section 1 of this Act takes effect only if  
21 the Act of the 79th Legislature, Regular Session, 2005, relating to  
22 nonsubstantive amendments to and corrections in existing codes does  
23 not take effect. If that Act takes effect, Section 1 of this Act has  
24 no effect.

25 (b) Section 3 of this Act takes effect only if the Act of the  
26 79th Legislature, Regular Session, 2005, relating to  
27 nonsubstantive additions to and corrections in existing codes takes

1 effect. If that Act does not take effect, Section 3 of this Act has  
2 no effect.

3 SECTION 5. (a) With respect to a contract entered into  
4 between an insurer or health maintenance organization and a  
5 physician or health care provider, and payment for medical care or  
6 health care services under the contract, the changes in law made by  
7 this Act apply only to a contract entered into or renewed on or  
8 after the 60th day after the effective date of this Act and payment  
9 for services under the contract. Such a contract entered into  
10 before the 60th day after the effective date of this Act and not  
11 renewed or that was last renewed before the 60th day after the  
12 effective date of this Act, and payment for medical care or health  
13 care services under the contract, are governed by the law in effect  
14 immediately before the effective date of this Act, and that law is  
15 continued in effect for that purpose.

16 (b) With respect to the payment for medical care or health  
17 care services provided, but not provided under a contract to which  
18 Subsection (a) of this section applies, the changes in law made by  
19 this Act apply only to the payment for those services provided on or  
20 after the 60th day after the effective date of this Act. Payment  
21 for those services provided before the 60th day after the effective  
22 date of this Act is governed by the law in effect immediately before  
23 the effective date of this Act, and that law is continued in effect  
24 for that purpose.

25 SECTION 6. This Act takes effect September 1, 2005.