

## **BILL ANALYSIS**

H.B. 3850

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Insurance

Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, the Texas Insurance Code requires Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs) to pay health care providers promptly within specified time frames for paper and electronic claims. Current law also requires HMOs and PPOs to adhere to certain procedures when auditing health care provider claims.

H.B. 3850 would update current law to reflect the fact that the vast majority of pharmacy claims are submitted electronically and are determined almost instantly to be accepted or rejected by the, HMO, PPO or the entity contracting with the HMO or PPO to process or pay claims. When the claims are accepted, the claim is considered affirmatively adjudicated. This bill would require payment to pharmacists and pharmacies of affirmatively adjudicated claims via electronic funds transfer (EFT) and shorten the payment period from 21 days to 14 days. It would also require payment to pharmacists and pharmacies that are unable to receive funds via EFT within 21 days for affirmatively adjudicated electronic claims.

H.B. 3850 also would permit pharmacists and pharmacies a reasonable amount of time to make staffing changes necessary to maintain patient care while simultaneously accommodating an on-site audit by requiring a pharmacy benefit manager to provide the pharmacy with written notice of the audit by certified mail no later than the 15<sup>th</sup> day before the audit date.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

### **ANALYSIS**

H.B. 3850 relates to payment by pharmacy benefit managers of certain clean claims.

H.B. 3850, in SECTION 1, seeks to amend Section 843.338 of the Texas Insurance Code by adding a reference to Section 843.339. Next, H.B. 3850 in SECTION 2 amends Section 843.339 of the Texas Insurance Code by changing the heading of the section to now read "Deadline For Action on Prescription Claims; Payments. The original heading read "Deadline For Action on Certain Prescription Claims".

Also, H.B. 3850 adds a new subsection to Section 843.339 of the Texas Insurance Code. Subsection (a), as created by this bill, adds to the language found in the Texas Insurance Code. The subsection now states that not later than the 21<sup>st</sup> day after the date a health maintenance organization affirmatively adjudicates a pharmacy claim that is electronically submitted, the health maintenance organization shall pay the total amount of the claim. A health maintenance organization shall pay a pharmacy claim that is submitted in a nonelectronic format not later than the deadline provided under Section 843.338.

H.B. 3850 in SECTION 2 also creates Subsections (b) and (c) in Section 843.339 of the Texas Insurance Code. Subsection (b) states that, except as provided by Subsection (c), a pharmacy benefit manager that administers a pharmacy claim for a health maintenance organization shall pay the provider through an electronic funds transfer not later than the 14<sup>th</sup> day after the date on which the claim is determined under this subchapter to be affirmatively adjudicated. Subsection (c) states that if the provider is unable to receive payment of a claim described by Subsection (b) through electronic funds transfer, the pharmacy benefit manager shall pay the claim not later than the 21<sup>st</sup> day after the date on which the claim is determined under this subchapter to be affirmatively adjudicated.

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Next, H.B. 3850 in SECTION 3 seeks to amend Section 843.340 of the Texas Insurance Code by adding a new subsection, Subsection (f). Subsection (f) states that a pharmacy benefit manager who performs an on-site audit under this chapter of a provider who is a pharmacist or pharmacy shall provide the provider a written notice of the audit and it must be sent certified mail not later than the 15<sup>th</sup> day before the date on which the audit is scheduled to occur.

In SECTION 4, H.B. 3850 seeks to amend Section 1301.001(1) of the Texas Insurance Code to include a pharmacist and a pharmacy to the definition of a health care provider. In SECTION 5, H.B. 3850 seeks to amend Section 1301.103 of the Texas Insurance Code by adding a reference to Section 1301.104.

Next, H.B. 3850 in SECTION 6 amends Section 1301.104 of the Texas Insurance Code by changing the heading of the section to now read “Deadline for Action on Pharmacy Claims; Payment” as opposed to “Deadline For Action on Certain Pharmacy Claim” as is currently written in the Texas Insurance Code. H.B. 3850 also creates a new subsection, Subsection (a) in Section 1301.104, and adds to the language currently found in the Texas Insurance Code. Subsection (a) found in Section 1301.104 now reads that not later than the 21<sup>st</sup> day after the date an insurer affirmatively adjudicates a pharmacy claim that is electronically submitted, the insurer shall pay the total amount of the claim. An insurer shall pay a pharmacy claim that is submitted in a nonelectronic format not later than the deadline provided under Section 1301.103.

Also, H.B. 3850 in Section 6 creates two new subsections in Section 1301.104 of the Texas Insurance Code. Subsection (b) states that except as provided by Subsection (c), a pharmacy benefit manager that administers a pharmacy claim for an insurer under a preferred provider benefit plan shall pay the provider through electronic funds transfer not later than the 14<sup>th</sup> day after the date on which the claim is determined under this subchapter to be affirmatively adjudicated. Subsection (c) states that if the provider is unable to receive payment of a claim described by Subsection (b) through electronic funds transfer, the pharmacy benefit manager shall pay the claim not later than the 21<sup>st</sup> day after the date on which the claim is determined under this subchapter to be affirmatively adjudicated.

H.B. 3850, in SECTION 7, seeks to amend Section 1301.105 of the Texas Insurance Code by adding a new subsection. Subsection (e) states that a pharmacy benefits manager who performs an on-site audit under this chapter of a provider who is a pharmacist or pharmacy shall provide the provider reasonable written notice of the audit and it must be sent by certified mail not later than the 15<sup>th</sup> day before the date on which the audit is scheduled to occur.

SECTION 8 of H.B. 3850 states that the change in law made by this Act applies only to a claim submitted by a provider to a health maintenance organization or an insurer on or after the effective date of this Act. A claim submitted before the effective date of this Act is governed by the law as it existed immediately before that date, and continued in effect for that purpose.

Finally, SECTION 9 of H.B. 3850 states that this Act takes effect September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.