

By: Taylor

H.B. No. 3850

A BILL TO BE ENTITLED

AN ACT

relating to payment by pharmacy benefit managers of certain clean claims.

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

SECTION 1. Section 843.338, Insurance Code, is amended to read as follows:

Sec. 843.338. DEADLINE FOR ACTION ON CLEAN CLAIMS. Except as provided by Sections [~~Section~~] 843.3385 and 843.339, not later than the 45th day after the date on which a health maintenance organization receives a clean claim from a participating physician or provider in a nonelectronic format or the 30th day after the date the health maintenance organization receives a clean claim from a participating physician or provider that is electronically submitted, the health maintenance organization shall make a determination of whether the claim is payable and:

(1) if the health maintenance organization determines the entire claim is payable, pay the total amount of the claim in accordance with the contract between the physician or provider and the health maintenance organization;

(2) if the health maintenance organization determines a portion of the claim is payable, pay the portion of the claim that is not in dispute and notify the physician or provider in writing why the remaining portion of the claim will not be paid; or

(3) if the health maintenance organization determines

1 that the claim is not payable, notify the physician or provider in  
2 writing why the claim will not be paid.

3 SECTION 2. Section 843.339, Insurance Code, is amended to  
4 read as follows:

5 Sec. 843.339. DEADLINE FOR ACTION ON [~~CERTAIN~~] PRESCRIPTION  
6 CLAIMS; PAYMENT. (a) Not later than the 21st day after the date a  
7 health maintenance organization affirmatively adjudicates a  
8 pharmacy claim that is electronically submitted, the health  
9 maintenance organization shall pay the total amount of the claim. A  
10 health maintenance organization shall pay a pharmacy claim that is  
11 submitted in a nonelectronic format not later than the deadline  
12 provided under Section 843.338.

13 (b) Except as provided by Subsection (c), a pharmacy benefit  
14 manager that administers a pharmacy claim for a health maintenance  
15 organization shall pay the provider through electronic funds  
16 transfer not later than the 14th day after the date on which the  
17 claim is determined under this subchapter to be affirmatively  
18 adjudicated.

19 (c) If the provider is unable to receive payment of a claim  
20 described by Subsection (b) through electronic funds transfer, the  
21 pharmacy benefit manager shall pay the claim not later than the 21st  
22 day after the date on which the claim is determined under this  
23 subchapter to be affirmatively adjudicated.

24 SECTION 3. Section 843.340, Insurance Code, is amended by  
25 adding Subsection (f) to read as follows:

26 (f) A pharmacy benefit manager who performs an on-site audit  
27 under this chapter of a provider who is a pharmacist or pharmacy

1 shall provide the provider written notice of the audit and it must  
2 be sent by certified mail not later than the 15th day before the  
3 date on which the audit is scheduled to occur.

4 SECTION 4. Section 1301.001(1), Insurance Code, is amended  
5 to read as follows:

6 (1) "Health care provider" means a practitioner,  
7 institutional provider, or other person or organization that  
8 furnishes health care services and that is licensed or otherwise  
9 authorized to practice in this state. The term includes a  
10 pharmacist and a pharmacy. The term does not include a physician.

11 SECTION 5. Section 1301.103, Insurance Code, is amended to  
12 read as follows:

13 Sec. 1301.103. DEADLINE FOR ACTION ON CLEAN CLAIMS. Except  
14 as provided by Sections 1301.104 and ~~[Section]~~ 1301.1054, not later  
15 than the 45th day after the date an insurer receives a clean claim  
16 from a preferred provider in a nonelectronic format or the 30th day  
17 after the date an insurer receives a clean claim from a preferred  
18 provider that is electronically submitted, the insurer shall make a  
19 determination of whether the claim is payable and:

20 (1) if the insurer determines the entire claim is  
21 payable, pay the total amount of the claim in accordance with the  
22 contract between the preferred provider and the insurer;

23 (2) if the insurer determines a portion of the claim is  
24 payable, pay the portion of the claim that is not in dispute and  
25 notify the preferred provider in writing why the remaining portion  
26 of the claim will not be paid; or

27 (3) if the insurer determines that the claim is not

1 payable, notify the preferred provider in writing why the claim  
2 will not be paid.

3 SECTION 6. Section 1301.104, Insurance Code, is amended to  
4 read as follows:

5 Sec. 1301.104. DEADLINE FOR ACTION ON [~~CERTAIN~~] PHARMACY  
6 CLAIMS; PAYMENT. (a) Not later than the 21st day after the date an  
7 insurer affirmatively adjudicates a pharmacy claim that is  
8 electronically submitted, the insurer shall pay the total amount of  
9 the claim. An insurer shall pay a pharmacy claim that is submitted  
10 in a nonelectronic format not later than the deadline provided  
11 under Section 1301.103.

12 (b) Except as provided by Subsection (c), a pharmacy benefit  
13 manager that administers a pharmacy claim for an insurer under a  
14 preferred provider benefit plan shall pay the provider through  
15 electronic funds transfer not later than the 14th day after the date  
16 on which the claim is determined under this subchapter to be  
17 affirmatively adjudicated.

18 (c) If the provider is unable to receive payment of a claim  
19 described by Subsection (b) through electronic funds transfer, the  
20 pharmacy benefit manager shall pay the claim not later than the 21st  
21 day after the date on which the claim is determined under this  
22 subchapter to be affirmatively adjudicated.

23 SECTION 7. Section 1301.105, Insurance Code, is amended by  
24 adding Subsection (e) to read as follows:

25 (e) A pharmacy benefit manager who performs an on-site audit  
26 under this chapter of a provider who is a pharmacist or pharmacy  
27 shall provide the provider reasonable written notice of the audit

1 and it must be sent by certified mail not later than the 15th day  
2 before the date on which the audit is scheduled to occur.

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

9       SECTION 9. This Act takes effect September 1, 2007.