

By: Isett

H.B. No. 3459

A BILL TO BE ENTITLED

AN ACT

relating to pricing for health care services and supplies and reimbursement for those services or supplies under certain health benefit plans; imposing penalties.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1225 to read as follows:

CHAPTER 1225. PRICING FOR HEALTH CARE SERVICES AND SUPPLIES;  
REIMBURSEMENT RATES

Sec. 1225.001. DEFINITION. In this chapter, "health care provider" includes a physician, health care practitioner, and health care facility.

Sec. 1225.002. APPLICABILITY OF CHAPTER. (a) This chapter does not apply to the provision of a health care service or supply to a:

(1) patient for which a health care provider has accepted assignment for the health care service or supply from Medicaid or Medicare or any other federal, state, or local government-sponsored indigent health care program;

(2) financially or medically indigent person who qualifies for indigent health care services based on:

(A) a sliding fee scale; or

(B) a written charity care policy established by a health care provider; or

1           (3) person who is not covered by a health benefit plan  
2 that provides benefits for the services and qualifies for services  
3 for the uninsured based on a written policy established by a health  
4 care provider.

5           (b) This chapter does not apply to payments made for a  
6 health care service or supply on a capitation basis.

7           (c) This chapter does not permit the establishment of health  
8 care provider policies or contracts that violate any other state or  
9 federal law.

10           Sec. 1225.003. PRICING INFORMATION; AVAILABILITY. (a)  
11 Each health care provider shall compile a list of the price charged  
12 by the provider for each service or supply provided by the health  
13 care provider. If the health care provider bundles together prices  
14 for multiple services or supplies provided by the provider during  
15 one treatment by or visit to the provider, the provider shall  
16 include any price bundles used by the provider in the list compiled  
17 under this subsection.

18           (b) A health care provider shall provide a copy of the price  
19 list described by Subsection (a) to any patient of the health care  
20 provider who requests a copy of the list.

21           Sec. 1225.004. POSTING REQUIRED. (a) Each health care  
22 provider shall post in any general waiting area maintained by the  
23 provider, including any waiting areas of off-site or on-site  
24 registration, a clear and conspicuous notice that advises patients  
25 of the availability of the price list described by Section  
26 1225.003.

27           (b) If a health care provider maintains an Internet website,

1 the provider shall post the price list described by Section  
2 1225.003 on the provider's website.

3 Sec. 1225.005. OVERPAYMENT; REFUNDS. (a) A health care  
4 provider that receives payment for a health care service or supply  
5 provided to a patient by the provider that exceeds the price of  
6 those products or services published in the price list described by  
7 Section 1225.003 shall, not later than the 30th day after the date  
8 the overpayment is discovered by the provider, refund to the payor  
9 the amount of the overpayment. This section does not apply to an  
10 overpayment subject to Section 843.350 or 1301.132.

11 (b) The health care provider shall refund the overpayment  
12 described by Subsection (a) by:

13 (1) crediting the patient's account to pay a copayment  
14 amount, deductible, or other charge that the patient owes to the  
15 provider; or

16 (2) funding an established qualified account of the  
17 patient such as a savings account or medical reimbursement account  
18 dedicated to the payment of a future medical expense.

19 Sec. 1225.006. DISCIPLINARY ACTIONS AND ADMINISTRATIVE  
20 PENALTY. A violation of this chapter is grounds for disciplinary  
21 action or the imposition of an administrative penalty by the entity  
22 that licenses the health care provider that violates this chapter.

23 Sec. 1225.007. FRAUDULENT INSURANCE ACT. An offense under  
24 this chapter is a fraudulent insurance act under Chapter 701.

25 Sec. 1225.008. CHARGING DIFFERENT PRICES; OFFENSE. (a) A  
26 health care provider commits an offense if the provider knowingly  
27 charges different prices for providing the same health care service

1 or supply.

2 (b) It is a defense to prosecution under this section that  
3 the health care provider refunded the overpayment as required by  
4 Section 843.350, 1225.005, or 1301.132, as applicable.

5 (c) An offense under this section is a Class B misdemeanor.

6 Sec. 1225.009. ESTABLISHMENT OF RATES. (a) The department  
7 shall analyze reimbursement payments made by health benefit plan  
8 issuers to a health care provider for specific health care services  
9 or supplies in each health service region established by the  
10 Department of State Health Services under Section 121.007, Health  
11 and Safety Code.

12 (b) For each region analyzed under Subsection (a), and for  
13 each health care service or supply, the commissioner shall  
14 determine the 25th quartile of the reimbursement payment.

15 (c) The amount determined for each health care service or  
16 supply for each region by the department under Subsection (b) is the  
17 maximum amount that a health benefit plan issuer may reimburse a  
18 health care provider for the health care service or supply.

19 Sec. 1225.010. EXCEPTION. For good cause shown, the  
20 commissioner may by rule except from the maximum reimbursement rate  
21 established under Section 1225.009 a payment made:

22 (1) to a tertiary care facility as defined by Section  
23 46.001, Health and Safety Code; or

24 (2) for tertiary medical services as defined by  
25 Section 46.001, Health and Safety Code, or a supply related to those  
26 services.

27 SECTION 2. A health care provider shall compile the price

1 list and post the notice required by Chapter 1225, Insurance Code,  
2 as added by this Act, not later than January 1, 2010.

3 SECTION 3. This Act applies only to an insurance policy,  
4 contract, or evidence of coverage that is delivered, issued for  
5 delivery, or renewed on or after January 1, 2010. A policy,  
6 contract, or evidence of coverage delivered, issued for delivery,  
7 or renewed before January 1, 2010, is governed by the law as it  
8 existed immediately before the effective date of this Act, and that  
9 law is continued in effect for that purpose.

10 SECTION 4. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2009.