

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE \_\_\_\_\_. PAYMENT FOR CERTAIN SERVICES BY MANAGED CARE PLAN

SECTION \_\_\_\_\_.001. Subchapter A, Chapter 1467, Insurance Code, is amended by adding Section 1467.0021 to read as follows:

Sec. 1467.0021. CERTAIN CLAIMS EXCLUDED. This chapter does not apply to a claim with respect to services to which Chapter 1468 applies.

SECTION \_\_\_\_\_.002. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1468 to read as follows:

CHAPTER 1468. PAYMENT OF CERTAIN SERVICES PROVIDED TO INDIVIDUAL COVERED BY MANAGED CARE PLAN

Sec. 1468.001. DEFINITIONS. In this chapter:

(1) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, an emergency department physician, or a neonatologist:

(A) to whom the facility has granted clinical privileges; and

(B) who provides services to patients of the facility under those clinical privileges.

(2) "Managed care plan" means a plan under which a health maintenance organization, preferred provider benefit plan issuer, or other organization provides or arranges for health care benefits to plan enrollees and requires or encourages plan enrollees to use health care practitioners and health care facilities designated by the plan.

Sec. 1468.002. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) emergency medical services provided by an out-of-network provider; and

(2) medical or health care services provided:

(A) to an individual covered by a managed care plan;

(B) within a hospital or similar facility; and

(C) by a facility-based physician or provider who is an out-of-network provider.

Sec. 1468.003. PAYMENT FROM MANAGED CARE PLAN: USUAL AND CUSTOMARY CHARGE. A physician or health care provider who provides a medical or health care service described by Section 1468.002 to an individual covered for the service under a managed care plan is entitled to payment from the individual's managed care plan in an amount equal to the usual and customary charge for the service, minus any deductible, copayment, or coinsurance for which the individual is responsible under the plan.

Sec. 1468.004. ARBITRATION OF USUAL AND CUSTOMARY CHARGE. If a physician or health care provider and a managed care plan issuer do not agree on the usual and customary charge for a medical or health care service that is subject to this chapter, the physician or health care provider or the managed care plan issuer may submit the dispute to arbitration to determine the usual and customary charge.

Sec. 1468.005. ARBITRATION PROCEDURES; ARBITRATOR QUALIFICATIONS. (a) The commissioner by rule shall:

(1) establish procedures for conducting an arbitration under this chapter; and

(2) prescribe qualifications for serving as an arbitrator under this chapter.

(b) The department shall maintain a list of arbitrators qualified to conduct arbitrations under this chapter.

Sec. 1468.006. APPEAL OF ARBITRATOR DETERMINATION. (a) On or before the 60th day after the date an arbitrator determines a usual and customary charge under this chapter, either party to the arbitration may file a petition for judicial review of the determination in a district court.

(b) The standard of review for judicial review under this section is de novo.

(c) In an action under this section, the amount determined by the arbitrator to be the usual and customary charge shall be admitted into evidence. There is a rebuttable presumption that the amount determined by the arbitrator is the usual and customary charge.

(d) The party that prevails in an action under this section is entitled to an award of the party's reasonable attorney's fees

incurred in connection with the action.

(e) The managed care plan shall promptly pay the physician or provider the amount of the usual and customary charge determined by the court under this section.

Sec. 1468.007. APPLICABILITY OF CERTAIN OTHER LAW. Except to the extent of any conflict with this section, Chapter 171, Civil Practice and Remedies Code, applies to an arbitration conducted under this chapter.

Sec. 1468.008. PAYMENT FROM COVERED INDIVIDUAL. (a) Unless an individual who receives a medical or health care service to which this chapter applies agrees before the service is provided to a total charge for the service that exceeds the usual and customary charge, the physician or provider is not entitled to payment from the individual in excess of any required deductible, copayment, or coinsurance.

(b) If the physician or provider seeks to recover from the individual an amount that exceeds the amount allowed under this section, the physician or provider must:

(1) notify the individual of the usual and customary rate established in accordance with this chapter; and

(2) notify the individual that the individual is not required by law to pay the portion of the fee that exceeds the usual and customary rate unless the individual agreed to a higher rate before the service was provided.

(c) If a physician or provider bills an individual in violation of this section and the individual pays an amount that is higher than the individual would be required to pay under this section, the individual may file an action against the physician or provider to recover the amount of the overpayment and the individual's reasonable attorney's fees incurred in connection with recovering the overpayment.

(d) If a physician or health care provider files an action against an individual to recover payment for services that are subject to this chapter and is found to be seeking payment that exceeds the amount for which the individual is liable under this section, the individual is entitled to recover the individual's reasonable attorney's fees incurred in connection with the action.

SECTION \_\_\_\_ .003. The change in law made by this article applies only to medical or health care services provided on or after the effective date of this Act to an individual covered under a managed care plan delivered, issued for delivery, or renewed on or after the effective date of this Act and payment for those services.