

BILL ANALYSIS

C.S.H.B. 3744
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that there are concerns that the reimbursement structure currently used to reimburse hospitals across the state for the cost of Medicaid services is flawed and creates disincentives for managing costs. The parties note that hospitals are reimbursed at higher rates for more expensive procedures because a hospital is reimbursed based on the cost of a procedure. The parties further note that a hospital that is more efficient and that streamlines costs may have a lower rate of reimbursement than a hospital that operates more inefficiently and spends more money on expensive procedures.

Interested parties assert that hospitals would be encouraged to operate more efficiently and provide higher quality care if the reimbursement methodology used under the Medicaid program is converted to an all patient refined diagnosis-related groups (DRG) methodology, if a statewide standard dollar amount (SDA) rate is established, and if a hospital value-based purchasing program that includes certain quality standards is established. C.S.H.B. 3744 seeks to address these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.H.B. 3744 amends the Government Code to require the Health and Human Services Commission (HHSC) to, as soon as possible after the bill's effective date but not later than September 1, 2012, convert the reimbursement methodology used under the Medicaid program to reimburse inpatient hospital services to an all patient refined diagnosis-related groups (DRG) methodology and establish a statewide standard dollar amount (SDA) rate that is based on the average of all hospital costs associated with providing services under the Medicaid program during the preceding fiscal year to incentivize controlling costs and improving efficiency. The bill requires HHSC, in converting to that reimbursement methodology and to the extent possible, to examine reimbursement methodologies, including nationally implemented reimbursement methodologies, that address historical disparities in the provision of health care services to women, children, and persons with mental illnesses. The bill authorizes HHSC to adjust rates determined using the factors established by the bill to ensure the equitable reimbursement of hospitals for inpatient services by adjusting the rates as necessary to take into account different markets and provider responsibilities, including by making rate adjustments to account for market wage indexes, whether a hospital is a teaching institution, and whether the hospital is a state-designated trauma facility or burn center. The bill requires HHSC to adjust rates determined using the factors established by the bill to provide incentives for hospitals to provide higher quality of care.

C.S.H.B. 3744 requires HHSC, to provide such incentives, to establish a hospital value-based purchasing program that includes quality standards established by the executive commissioner of

HHSC by rule, other than quality standards relating to potentially preventable readmissions and potentially preventable complications. The bill requires the executive commissioner to implement the program and adopt the quality standards as soon as possible after the bill's effective date, but not later than September 1, 2012. The bill requires incentives provided under the program to be based on whether a hospital meets, or improves the hospital's performance with respect to meeting, those quality standards. The bill authorizes HHSC, under the program, to reduce a hospital's reimbursement rates by two percent each fiscal year the hospital fails to meet, or to make progress toward meeting, the quality standards and to use 50 percent of the money saved as a result of the reimbursement rate reductions to award hospitals that meet, or make progress toward meeting, the quality standards.

C.S.H.B. 3744 adds a temporary provision, set to expire September 1, 2017, to authorize HHSC to reduce a hospital's reimbursement rates as provided by the bill's provisions only by one percent for the state fiscal year beginning September 1, 2012; 1.25 percent for the state fiscal year beginning September 1, 2013; 1.5 percent for the state fiscal year beginning September 1, 2014; and 1.75 percent for the state fiscal year beginning September 1, 2015.

C.S.H.B. 3744 makes its provisions, except as otherwise provided, inapplicable to a hospital:

- located in a county with a population of less than 50,000 according to the 2000 federal decennial census;
- owned or operated by the state;
- whose inpatients are predominantly individuals under 18 years of age as described under the federal Social Security Act;
- classified as a rural referral center under the federal Social Security Act;
- that is a sole community hospital as defined under the federal Social Security Act that is not located in a metropolitan statistical area as defined by the United States Office of Management and Budget; or
- that is a critical access hospital as defined under the federal Social Security Act.

The bill requires HHSC to reimburse such hospitals for inpatient care services in a manner that is consistent with provision of payments for inpatient care services under the federal Social Security Act.

C.S.H.B. 3744 requires HHSC to provide reimbursements to hospitals for the provision of services under the Medicaid program using the reimbursement rates in effect on August 31, 2011, until HHSC converts the Medicaid hospital services reimbursement methodology to an all patient refined diagnosis-related groups (DRG) methodology. The bill prohibits HHSC, after implementing that methodology and notwithstanding any other law, from using appropriated money to provide reimbursements under any other methodology. The bill authorizes HHSC to implement the hospital value-based purchasing program as required by the bill's provisions, or otherwise adjust reimbursement rates as provided by the bill's provisions, only after HHSC converts the Medicaid hospital services reimbursement methodology and establishes the statewide standard dollar amount (SDA) rate.

C.S.H.B. 3744 requires HHSC, to the extent feasible and using the data collected from hospitals on present-on-admission indicators for purposes of identifying potentially preventable readmissions and complications experienced by Medicaid recipients and using the all patient refined diagnosis-related groups (DRG) methodology implemented under the bill's provisions, to adjust Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, in a manner that penalizes a hospital based on the hospital's failure to reduce potentially preventable readmissions and potentially preventable complications. The bill requires HHSC to provide the report regarding potentially preventable readmissions and complications to a hospital at least one

year before HHSC adjusts Medicaid reimbursements to the hospital. The bill makes its provisions relating to reimbursement adjustments inapplicable to those hospitals exempt from the bill's provisions relating to the reduction of reimbursement rates for Medicaid inpatient hospital services. The bill defines "potentially preventable complication" and defines "potentially preventable readmission" for purposes of provisions of law relating to health and human services generally.

C.S.H.B. 3744 transfers, redesignates, and amends a provision of the Government Code relating to hospital health information exchange to establish provisions relating to the collection and reporting of certain information. The bill removes a provision defining "potentially preventable readmission" for purposes of provisions relating to hospital health information exchange. The bill requires the executive commissioner to adopt rules for identifying potentially preventable complications experienced by Medicaid recipients, in addition to rules for identifying potentially preventable readmissions of Medicaid recipients. The bill requires HHSC to collect data from, rather than exchange data with, hospitals on present-on-admission indicators for purposes of identifying potentially preventable readmissions and complications. The bill requires HHSC to establish a program to provide a confidential report to each hospital in Texas that participates in the Medicaid program regarding the hospital's performance with respect to potentially preventable readmissions and potentially preventable complications. The bill establishes that, to the extent possible, such a report should include potentially preventable readmissions and potentially preventable complications information across all payment systems. The bill requires a hospital to distribute the information contained in the report to health care providers providing services at the hospital. The bill establishes that such a report provided to a hospital under the bill's provisions is confidential and not subject to the state's open records law. The bill makes its provisions relating to the collection and reporting of certain information inapplicable to a hospital that is exempt from the bill's provisions relating to the reduction of reimbursement rates for Medicaid inpatient hospital services and reimbursement adjustments. The bill removes provisions requiring HHSC to establish a health information exchange program to exchange confidential information with each hospital in Texas regarding the hospital's performance with respect to potentially preventable readmissions and makes conforming changes. The bill requires HHSC, not later than September 1, 2012, to begin providing performance reports to hospitals regarding the hospitals' performances with respect to potentially preventable complications.

C.S.H.B. 3744 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3744 contains provisions not included in the original defining "potentially preventable complication" and defines "potentially preventable readmission" for purposes of provisions of law relating to health and human services generally.

C.S.H.B. 3744 contains a provision not included in the original requiring the Health and Human Services Commission (HHSC) to establish a statewide standard dollar amount (SDA) rate that is based on the average of all hospital costs associated with providing services under the Medicaid program during the preceding fiscal year to incentivize controlling costs and improving efficiency. The substitute contains a provision not included in the original requiring HHSC, in converting to an all patient refined diagnosis-related groups (DRG) methodology and to the extent possible, to examine reimbursement methodologies, including nationally implemented reimbursement methodologies, that address historical disparities in the provision of health care

services to women, children, and persons with mental illnesses.

C.S.H.B. 3744 differs from the original by authorizing HHSC to adjust rates determined using the factors established by the substitute to ensure the equitable reimbursement of hospitals for inpatient services by adjusting rates as necessary to take into account different markets and provider responsibilities, whereas the original requires HHSC to adjust those rates. The substitute, in a provision relating to the adjustment of rates to ensure the equitable reimbursement of hospitals for inpatient services, differs from the original by including, among other rate adjustments, rate adjustments to account for whether the hospital is a state-designated trauma facility or burn center, whereas the original includes rate adjustments to account for the extent to which a hospital provides comparatively high levels of uncompensated care.

C.S.H.B. 3744, in a provision requiring HHSC to establish a hospital value-based purchasing program that includes quality standards established by the executive commissioner of HHSC by rule to provide incentives for hospitals to provide higher quality of care, contains a specification not included in the original that the standards required to be established are standards other than quality standards relating to potentially preventable readmissions and potentially preventable complications. The substitute differs from the original by authorizing HHSC, under the hospital value-based purchasing program, to use 50 percent of the money saved as a result of the reimbursement rate reductions to award hospitals who meet, or make progress toward meeting, the quality standards, whereas the original does not limit the amount of such money HHSC is authorized to use for such purposes. The substitute contains a provision not included in the original exempting certain specified hospitals from the substitute's provisions relating to the reduction of reimbursement rates for Medicaid inpatient hospital services.

C.S.H.B. 3744 contains provisions not included in the original requiring HHSC to adjust Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, in a manner that penalizes a hospital based on the hospital's failure to reduce potentially preventable readmissions and potentially preventable complications and requiring HHSC to provide a report regarding the hospital's performance with respect to potentially preventable readmissions and complications to the hospital at least one year before HHSC adjusts Medicaid reimbursements to the hospital. The substitute contains a provision not included in the original making provisions relating to reimbursement adjustments inapplicable to certain specified hospitals.

C.S.H.B. 3744 contains provisions not included in the original transferring, redesignating, and amending a provision of the Government Code relating to hospital health information exchange to establish provisions relating to the collection, reporting, and confidentiality of certain information from hospitals relating to identifying potentially preventable readmissions of Medicaid recipients and potentially preventable complications experienced by those recipients. The substitute contains provisions not included in the original removing a provision defining "potentially preventable readmission" as it relates to hospital health information exchange and making bill provisions relating to the collection, reporting, and confidentiality of certain information inapplicable to certain specified hospitals.

C.S.H.B. 3744 differs from the original by requiring HHSC, as soon as possible after the effective date, but not later than September 1, 2012, to convert the Medicaid hospital services reimbursement methodology to an all patient refined diagnosis-related groups (DRG) methodology, under which hospitals are reimbursed for the provision of services under the Medicaid program at a rate that is based on the statewide standard dollar amount (SDA) rate, whereas the original requires HHSC, as soon as possible after the effective date, to convert the Medicaid hospital services reimbursement methodology and implement the hospital value-based purchasing program.

C.S.H.B. 3744 differs from the original by requiring the executive commissioner of HHSC, as soon as possible after the effective date, but not later than September 1, 2012, to adopt the

quality standards for use in the hospital value-based purchasing program, whereas the original requires the executive commissioner to adopt such quality standards as soon as possible after the effective date.

C.S.H.B. 3744 omits a provision included in the original prohibiting HHSC from reducing reimbursement rates before September 1, 2012.

C.S.H.B. 3744 contains a provision not included in the original requiring HHSC to provide reimbursements to hospitals for the provision of services under the Medicaid program using the reimbursement rates in effect on August 31, 2011, until HHSC converts the Medicaid hospital services reimbursement methodology to an all patient refined diagnosis-related groups (DRG) methodology and prohibiting HHSC from using appropriated money to provide reimbursements under any other methodology after HHSC implements that methodology.

C.S.H.B. 3744 contains a provision not included in the original authorizing HHSC to implement the hospital value-based purchasing program as required by the substitute's provisions, or otherwise adjust reimbursement rates as provided by the bill's provisions, only after HHSC converts the Medicaid hospital services reimbursement methodology and establishes the statewide standard dollar amount (SDA) rate.

C.S.H.B. 3744 contains a provision not included in the original requiring HHSC, not later than September 1, 2012, to begin providing performance reports to hospitals regarding the hospitals' performances with respect to potentially preventable complications.