

By: J. Davis of Harris

H.B. No. 1720

A BILL TO BE ENTITLED

AN ACT

relating to improving health care provider accountability and efficiency under the child health plan and Medicaid programs.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.024161 to read as follows:

Sec. 531.024161. REIMBURSEMENT CLAIMS FOR CERTAIN MEDICAID OR CHIP SERVICES INVOLVING SUPERVISED PROVIDERS. (a) If a provider, including a nurse practitioner or physician assistant, under the Medicaid or child health plan program provides a referral for or orders health care services for a recipient or enrollee, as applicable, at the direction or under the supervision of another provider, and the referral or order is based on the supervised provider's evaluation of the recipient or enrollee, the names and associated national provider identifier numbers of the supervised provider and the supervising provider must be included on any claim for reimbursement submitted by a provider based on the referral or order. For purposes of this section, "national provider identifier" means the national provider identifier required under Section 1128J(e), Social Security Act (42 U.S.C. Section 1320a-7k(e)).

(b) The executive commissioner shall adopt rules necessary to implement this section.

SECTION 2. Subchapter C, Chapter 531, Government Code, is

1 amended by adding Sections 531.1131, 531.1132, and 531.117 to read
2 as follows:

3 Sec. 531.1131. FRAUD AND ABUSE RECOVERY BY CERTAIN PERSONS;
4 RETENTION OF RECOVERED AMOUNTS. (a) If a managed care
5 organization's special investigative unit under Section
6 531.113(a)(1) or the entity with which the managed care
7 organization contracts under Section 531.113(a)(2) discovers fraud
8 or abuse in the Medicaid program or the child health plan program,
9 the unit or entity shall:

10 (1) immediately notify the commission's office of
11 inspector general;

12 (2) subject to Subsection (b), begin payment recovery
13 efforts; and

14 (3) ensure that any payment recovery efforts in which
15 the organization engages are in accordance with applicable rules
16 adopted by the executive commissioner.

17 (b) If the amount sought to be recovered under Subsection
18 (a)(2) exceeds \$100,000, the managed care organization's special
19 investigative unit or contracted entity described by Subsection (a)
20 may not engage in payment recovery efforts if, not later than the
21 10th business day after the date the unit or entity notified the
22 commission's office of inspector general under Subsection (a)(1),
23 the unit or entity receives a notice from the office indicating that
24 the unit or entity is not authorized to proceed with recovery
25 efforts.

26 (c) A managed care organization may retain any money
27 recovered under Subsection (a)(2) by the organization's special

1 investigative unit or contracted entity described by Subsection
2 (a).

3 (d) A managed care organization shall submit a quarterly
4 report to the commission's office of inspector general detailing
5 the amount of money recovered under Subsection (a)(2).

6 (e) The executive commissioner shall adopt rules necessary
7 to implement this section, including rules establishing due process
8 procedures that must be followed by managed care organizations when
9 engaging in payment recovery efforts as provided by this section.

10 Sec. 531.1132. ANNUAL REPORT ON CERTAIN FRAUD AND ABUSE
11 RECOVERIES. Not later than December 1 of each year, the commission
12 shall prepare and submit a report to the legislature relating to the
13 amount of money recovered during the preceding 12-month period as a
14 result of investigations and recovery efforts made under Sections
15 531.113 and 531.1131 by special investigative units or entities
16 with which a managed care organization contracts under Section
17 531.113(a)(2). The report must specify the amount of money retained
18 by each managed care organization under Section 531.1131(c).

19 Sec. 531.117. RECOVERY AUDIT CONTRACTORS. To the extent
20 required under Section 1902(a)(42), Social Security Act (42 U.S.C.
21 Section 1396a(a)(42)), the commission shall establish a program
22 under which the commission contracts with one or more recovery
23 audit contractors for purposes of identifying underpayments and
24 overpayments under the Medicaid program and recovering the
25 overpayments.

26 SECTION 3. Subchapter D, Chapter 62, Health and Safety
27 Code, is amended by adding Section 62.1561 to read as follows:

1 Sec. 62.1561. PROHIBITION OF CERTAIN HEALTH CARE PROVIDERS.

2 The executive commissioner of the commission shall adopt rules for
3 prohibiting a person from participating in the child health plan
4 program as a health care provider for a reasonable period, as
5 determined by the executive commissioner, if the person:

6 (1) fails to repay overpayments under the program; or

7 (2) owns, controls, manages, or is otherwise
8 affiliated with and has financial, managerial, or administrative
9 influence over a provider who has been suspended or prohibited from
10 participating in the program.

11 SECTION 4. Section 32.047, Human Resources Code, is amended
12 to read as follows:

13 Sec. 32.047. PROHIBITION OF CERTAIN HEALTH CARE SERVICE
14 PROVIDERS. (a) A person is permanently prohibited from providing
15 or arranging to provide health care services under the medical
16 assistance program if:

17 (1) the person is convicted of an offense arising from
18 a fraudulent act under the program; and

19 (2) the person's fraudulent act results in injury to an
20 elderly person, as defined by Section 48.002(a)(1) [~~48.002(1)~~], a
21 disabled person, as defined by Section 48.002(a)(8)(A)
22 [~~48.002(8)(A)~~], or a person younger than 18 years of age.

23 (b) The executive commissioner of the Health and Human
24 Services Commission shall adopt rules for prohibiting a person from
25 participating in the medical assistance program as a health care
26 provider for a reasonable period, as determined by the executive
27 commissioner, if the person:

1 (1) fails to repay overpayments under the program; or
2 (2) owns, controls, manages, or is otherwise
3 affiliated with and has financial, managerial, or administrative
4 influence over a provider who has been suspended or prohibited from
5 participating in the program.

6 SECTION 5. Subchapter B, Chapter 32, Human Resources Code,
7 is amended by adding Section 32.068 to read as follows:

8 Sec. 32.068. IN-PERSON EVALUATION REQUIRED FOR CERTAIN
9 SERVICES. (a) A medical assistance provider may order or otherwise
10 authorize the provision of home health services for a recipient
11 only if the provider has conducted an in-person evaluation of the
12 recipient within the six-month period preceding the date the order
13 or other authorization was issued.

14 (b) A physician, physician assistant, nurse practitioner,
15 clinical nurse specialist, or certified nurse-midwife that orders
16 or otherwise authorizes the provision of durable medical equipment
17 for a recipient in accordance with Chapter 157, Occupations Code,
18 and other applicable law, including rules, must certify on the
19 order or other authorization that the person conducted an in-person
20 evaluation of the recipient within the six-month period preceding
21 the date the order or other authorization was issued.

22 (c) The executive commissioner of the Health and Human
23 Services Commission shall adopt rules necessary to implement this
24 section.

25 SECTION 6. Section 531.1131, Government Code, as added by
26 this Act, applies to the investigation of a fraudulent Medicaid or
27 child health plan program claim or other program abuse that

1 commences on or after the effective date of this Act. An
2 investigation that commences before the effective date of this Act
3 is governed by the law in effect when the investigation commenced,
4 and the former law is continued in effect for that purpose.

5 SECTION 7. If before implementing any provision of this Act
6 a state agency determines that a waiver or authorization from a
7 federal agency is necessary for implementation of that provision,
8 the agency affected by the provision shall request the waiver or
9 authorization and may delay implementing that provision until the
10 waiver or authorization is granted.

11 SECTION 8. This Act takes effect September 1, 2011.