

BILL ANALYSIS

C.S.H.B. 2158
By: Goldman
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the point at which a provider becomes ineligible for the Medicaid program because of fraudulent activity is currently ambiguous. This ambiguity means that, potentially, a fraudulent provider could continue to provide Medicaid services and defraud the Texas Medicaid system throughout the entire trial and appeal process, even if the provider is found liable by the trial jury. C.S.H.B. 2158 seeks to address this issue.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2158 amends the Human Resources Code to clarify that the period a Medicaid provider found liable for committing an unlawful act is ineligible to participate in the Medicaid program begins on the date on which a trial court enters a judgment finding the provider liable, rather than the date on which determination that the provider is liable becomes final. The bill establishes that the period of ineligibility for a physician, a physician organization, or an individual licensed by a health care regulatory agency begins on the date on which the determination that the physician, physician organization, or individual is liable becomes final and all appeals relating to that determination are exhausted or waived.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2158 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 36.005, Human Resources Code, is amended to read as follows:

(b-1) The period of ineligibility begins on the date on which the judgment finding the provider liable under Section 36.052 is entered by the trial court [~~determination~~

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 36.005, Human Resources Code, is amended by amending Subsection (b-1) and adding Subsections (b-3) and (f) to read as follows:

(b-1) The period of ineligibility begins on the date on which a trial court enters a judgment finding the provider liable under Section 36.052 [~~the determination that the provider is~~

~~that the provider is liable becomes final].~~

(b-2) Subsections (b) and (b-1) do not apply to a provider who operates a nursing facility or an ICF-MR facility.

(c) A person license by a state regulatory agency who commits an unlawful act is subject to professional discipline under the applicable licensing law or rules adopted under that law.

(d) For purposes of this section, a person is considered to have been found liable under Section 36.052 if the person is found liable in an action brought under Subchapter C.

(e) Notwithstanding (b-1), the period of ineligibility for an individual licensed by a health care regulatory agency or a physician begins on the date on which the determination that the individual or physician is liable becomes final.

(f) For purposes of Subsection (e), a "physician" includes a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code, or a partnership composed solely of physicians.

(g) For purposes of Subsection (e), "health care regulatory agency" has the meaning assigned by Section 774.001, Government Code.

SECTION 2. Subchapter C, Chapter 36, Human Resources Code, is amended by adding Section 36.1041 to read as follows:
Sec. 36.1041. NOTIFICATION OF SETTLEMENT. (a) Not later than the 10th day after the date a person described by Section 36.104(b) reaches a proposed

~~liable becomes final].~~

(b-3) Notwithstanding Subsection (b-1), the period of ineligibility for a physician, a physician organization, or an individual licensed by a health care regulatory agency begins on the date on which the determination that the physician, physician organization, or individual is liable becomes final and all appeals relating to that determination are exhausted or waived.

(f) For purposes of Subsection (b-3):
(1) "Health care regulatory agency" has the meaning assigned by Section 774.001, Government Code.

(2) "Physician organization" means:
(A) a professional association composed solely of physicians;
(B) a single legal entity authorized to practice medicine in this state and owned by two or more physicians;
(C) a nonprofit health corporation certified under Chapter 162, Occupations Code; or
(D) a partnership composed solely of physicians.

No equivalent provision.

settlement agreement with a defendant, the person must notify the attorney general. If the person fails to notify the attorney general as required by this section, the proposed settlement is void.

(b) Not later than the 30th day after the date the attorney general receives notice under Subsection (a), the attorney general shall file any objections to the terms of the proposed settlement agreement with the court.

(c) On filing of objections under Subsection (b), the court shall conduct a hearing. On a showing of good cause, the hearing may be held in camera. If, after the hearing, the court determines that the proposed settlement is fair, adequate, and reasonable under all the circumstances, the court may allow the parties to settle notwithstanding the attorney general's objection.

(d) If, after the hearing, the court determines that the attorney general's objection is well founded, the settlement shall not be approved by the court. The court may order the parties to renegotiate the settlement to address the attorney general's objection.

No equivalent provision.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.