

BILL ANALYSIS

S.B. 1322
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Recent reforms to state workers' compensation law created a state-certified health care network option for use by employers in an effort to manage health care costs and better treat injured workers. Under this certified workers' compensation health care network, all care, excluding pharmaceutical services, was required to be delivered through the network. Later revisions to state law required all voluntary and informal networks operating in the workers' compensation system to register with the Texas Department of Insurance division of workers' compensation and prohibited any discount contracts for health care outside of a certified network. The most recently enacted changes to the law authorize an insurance carrier and a registered voluntary or informal network to enter into discount contracts for pharmaceutical services. However, concerns have been raised that state law governing these workers' compensation health care networks currently has the effect of proscribing certain discounted health care services to injured employees unless they are delivered through a certified network.

Interested parties report that many employers do not contract with a certified network and thus their insurance carriers are required to purchase durable medical equipment and home health services at fee schedule rates. These parties further report that some employers with established networks find that durable medical equipment and home health care service retail options are limited, which can impact an injured worker's choice in providers. S.B. 1322 seeks to help reduce costs for employers, provide greater efficiency in delivering care to injured workers, and provide greater access to quality durable medical and home health services for injured workers.

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

S.B. 1322 amends the Labor Code to authorize durable medical equipment and home health care services to be reimbursed in accordance with fee guidelines adopted by the commissioner of workers' compensation or at a voluntarily negotiated contract rate in accordance with the bill's provisions. The bill specifies that for purposes of such reimbursement, "durable medical equipment" includes prosthetics and orthotic devices and related medical equipment and supplies, but does not include an object or device that is surgically implanted, embedded, inserted, or otherwise applied, related equipment necessary to operate, program, or recharge such an object or device, or an intrathecal pump.

S.B. 1322 authorizes an insurance carrier to pay a health care provider fees for durable medical equipment or home health care services that are inconsistent with the fee guidelines adopted by the commissioner only if the carrier or the carrier's authorized agent has a contract with the provider that includes a specific fee schedule. The bill authorizes an insurance carrier or the carrier's authorized agent to use an informal or voluntary network in order to obtain a contractual agreement providing for fees different from those authorized under the fee guidelines adopted by

the commissioner for durable medical equipment or home health services.

S.B. 1322 sets out the requirements for a carrier or a carrier's authorized agent who chooses to use an informal or voluntary network to obtain a contractual fee arrangement. The bill requires a contractual arrangement to exist between the carrier or authorized agent and the informal or voluntary network authorizing the network to contract with health care providers for durable medical equipment or home health care services on the carrier's behalf and also requires such a contractual arrangement between the informal or voluntary network and the health care provider that includes a specific fee schedule and complies with the notice requirements prescribed by the bill. The bill requires an insurance carrier, or the carrier's authorized agent or an informal or voluntary network at the carrier's request, to provide copies of each such contract to the Texas Department of Insurance division of workers' compensation on the request of the division and makes such information confidential and not subject to disclosure under public information law. The bill establishes that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided to the division on the division's request, does not include a specific fee schedule consistent with the bill's provisions, or does not clearly state that the contractual fee arrangement is between the health care provider and the named insurance carrier or the carrier's authorized agent, or if the carrier or the carrier's authorized agent does not comply with the bill's notice requirements.

S.B. 1322 requires an informal or voluntary network, or the carrier or the carrier's authorized agent, to notify each health care provider at least quarterly of any person, other than an injured employee, to which the network's contractual fee arrangements with the health care provider are sold, leased, transferred, or conveyed. The bill sets out the required contents and the authorized methods of delivery for the notice. The bill requires an informal or voluntary network, or the carrier or the carrier's authorized agent, as appropriate, to document the delivery of the notice and establishes the conditions under which notice is considered to be delivered. The bill requires a contractual agreement described by the bill that is entered into after the bill's effective date to be sent not later than the 30th day after the effective date of the contract with subsequent notices to be sent on a quarterly basis.

S.B. 1322 establishes that failure to provide appropriate documentation requested by the division or failure to provide notice as required by the bill creates a rebuttable presumption in an enforcement action under the Texas Workers' Compensation Act and in a medical fee dispute that a health care provider did not receive the notice. The bill provides that an insurance carrier or the carrier's authorized agent commits an administrative violation if the carrier or agent violates any of the bill's provisions relating to reimbursement for durable medical equipment and home health care services. The bill requires any administrative penalty assessed under the bill to be assessed against the carrier, regardless of whether the carrier or agent committed the violation. The bill establishes that its amendments to the Labor Code prevail in the event of a conflict with any provisions in the Texas Workers' Compensation Act governing medical review or any provisions in the Insurance Code governing workers' compensation health care networks.

S.B. 1322 makes statutory provisions prescribing reporting requirements for certain informal or voluntary networks relating to contact and identifying information for the network and the network's contractual and business partnerships applicable to the informal and voluntary networks under the bill's provisions and requires such a network that has a contract between an insurance carrier or an insurance carrier's authorized agent and a health care provider in effect on the bill's effective date to file the required report not later than the 30th day after the bill's effective date.

EFFECTIVE DATE

September 1, 2013.