

By: Zerwas

H.B. No. 1389

A BILL TO BE ENTITLED

AN ACT

relating to clinical initiatives to improve the quality of care and cost-effectiveness of the Medicaid program.

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

SECTION 1. Subtitle I, Title 4, Government Code, is amended by adding Chapter 538 to read as follows:

CHAPTER 538. MEDICAID CLINICAL INITIATIVES QUALITY

IMPROVEMENT PROCESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 538.001. DEFINITION. In this chapter, "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

Sec. 538.002. EFFECT OF CHAPTER; AUTHORITY OF COMMISSION. This chapter does not affect or give the commission additional authority to:

(1) affect any individual health care treatment decision for a Medicaid recipient; or

(2) replace or affect the process of determining Medicaid benefits or any applicable approval process required for reimbursement under the Medicaid program.

Sec. 538.003. RULES. The executive commissioner shall adopt rules necessary to implement this chapter.

1 SUBCHAPTER B. MEDICAID QUALITY IMPROVEMENT PROCESS TO ASSESS

2 CERTAIN CLINICAL INITIATIVES

3 Sec. 538.051. MEDICAID QUALITY IMPROVEMENT PROCESS. The
4 commission shall, according to the provisions of this chapter,
5 develop and implement a quality improvement process by which the
6 commission:

7 (1) receives suggestions for clinical initiatives
8 designed to improve:

9 (A) the quality of care provided under the
10 Medicaid program; and

11 (B) the cost-effectiveness of the Medicaid
12 program; and

13 (2) conducts an analysis of each clinical initiative
14 suggestion received under Section 538.052.

15 Sec. 538.052. SOLICITATION OF SUGGESTIONS FOR CLINICAL
16 INITIATIVES. (a) Subject to Subsection (b), the commission shall
17 solicit and accept suggestions for clinical initiatives, in either
18 written or electronic form, from:

19 (1) a member of the state legislature or a holder of an
20 office of state government that is voted on statewide;

21 (2) the executive commissioner;

22 (3) the commissioner of the Department of Aging and
23 Disability Services;

24 (4) the commissioner of the Department of State Health
25 Services;

26 (5) the commissioner of the Department of Family and
27 Protective Services;

1 (6) the commissioner of the Department of Assistive
2 and Rehabilitative Services;

3 (7) the medical care advisory committee established
4 under Section 32.022, Human Resources Code;

5 (8) the physician payment advisory committee created
6 under Section 32.022(d), Human Resources Code; and

7 (9) the Electronic Health Information Exchange System
8 Advisory Committee established under Section 531.904.

9 (b) The commission may not accept suggestions under this
10 section for an initiative that:

11 (1) is undergoing clinical trials; and

12 (2) expands a health care provider's scope of practice
13 beyond the law governing the provider's practice.

14 Sec. 538.0521. REQUIRED CLINICAL INITIATIVES. (a) In
15 addition to the clinical initiatives suggested under Section
16 538.052, the commission shall conduct an analysis and issue a final
17 report in accordance with the requirements of this chapter for the
18 following:

19 (1) an initiative that would require hospitals to
20 implement evidence-based protocols, including early goal-directed
21 therapy, in the treatment of severe sepsis and septicemia; and

22 (2) an initiative that would authorize the Medicaid
23 program to provide blood-based allergy testing for patients with
24 persistent asthma to develop an appropriate treatment strategy that
25 would minimize exposure to allergy-induced asthma attacks.

26 (b) This section expires August 31, 2014.

27 Sec. 538.053. CLINICAL INITIATIVE EVALUATION PROCESS. The

1 commission shall establish and implement an evaluation process for
2 the submission, analysis, and approval of a clinical initiative.

3 The process must:

4 (1) require that a suggestion for a clinical
5 initiative be submitted to the state Medicaid director;

6 (2) require that a suggestion for a clinical
7 initiative be published on the Internet website created under
8 Section 538.056 not later than the 30th day after the date on which
9 the state Medicaid director receives the suggestion;

10 (3) provide for a formal public comment period that
11 lasts at least 30 days during which the public may submit comments
12 and research relating to a suggested clinical initiative;

13 (4) require commission employees to perform an
14 analysis of each suggested clinical initiative in accordance with
15 Section 538.054; and

16 (5) require the development and publication of a final
17 report in accordance with Section 538.055 on each suggested
18 clinical initiative not later than the 180th day after the date on
19 which the state Medicaid director receives the suggestion.

20 Sec. 538.054. ANALYSIS OF CLINICAL INITIATIVES. The
21 commission shall conduct an analysis of each clinical initiative
22 required or submitted to the state Medicaid director under this
23 chapter. The analysis required under this section must include a
24 review of:

25 (1) any public comments and submitted research
26 relating to the initiative;

27 (2) the available clinical research and historical

- 1 utilization information relating to the initiative;
2 (3) published medical literature relating to the
3 initiative;
4 (4) any adoption of the initiative by medical
5 societies or other clinical groups;
6 (5) whether the initiative has been implemented under:
7 (A) the Medicare program;
8 (B) another state medical assistance program; or
9 (C) a state-operated health care program,
10 including the child health plan program established under Chapter
11 62, Health and Safety Code;
12 (6) the results of reports, research, pilot programs,
13 or clinical studies relating to the initiative conducted by:
14 (A) institutions of higher education, including
15 related medical schools;
16 (B) governmental entities and agencies; and
17 (C) private and nonprofit think tanks and
18 research groups;
19 (7) the impact that the initiative would have on the
20 Medicaid program if implemented in this state, including:
21 (A) an estimate of the number of recipients under
22 the Medicaid program that would be impacted by implementation of
23 the initiative; and
24 (B) a description of any potential cost savings
25 to the state that would result from implementation of the
26 initiative; and
27 (8) any statutory barriers to implementation of the

1 initiative.

2 Sec. 538.055. FINAL REPORT ON CLINICAL INITIATIVE. The
3 commission shall prepare a final report based on the commission's
4 analysis of a clinical initiative under Section 538.054. The final
5 report must include:

6 (1) a final determination of:

7 (A) the feasibility of implementing the
8 initiative;

9 (B) the likely impact implementing the
10 initiative would have on the quality of care provided under the
11 Medicaid program; and

12 (C) the anticipated cost savings to the state
13 that would result from implementing the initiative;

14 (2) a summary of the public comments, including a
15 description of any opposition to the initiative;

16 (3) an identification of any statutory barriers to
17 implementation of the initiative; and

18 (4) if the initiative is not implemented, an
19 explanation of the decision not to implement the initiative.

20 Sec. 538.056. INTERNET WEBSITE. The commission shall
21 maintain an Internet website related to the quality improvement
22 process required under this chapter. The website must include:

23 (1) an explanation of the process for submission,
24 analysis, and approval of clinical initiatives under this chapter;

25 (2) an explanation of how members of the public may
26 submit comments or research related to an initiative;

27 (3) a copy of each initiative suggested;

1 (4) the status of each initiative in the approval
2 process; and

3 (5) a copy of each final report prepared under this
4 chapter.

5 Sec. 538.057. ACTION ON CLINICAL INITIATIVE BY COMMISSION.

6 After the commission conducts an analysis of a clinical initiative
7 under Section 538.054:

8 (1) if the commission has determined that the
9 initiative is cost-effective and will improve the quality of care
10 under the Medicaid program, the commission shall:

11 (A) implement the initiative if implementation
12 of the initiative is not otherwise prohibited by law; or

13 (B) if implementation requires a change in law,
14 submit a copy of the final report together with recommendations
15 relating to the initiative's implementation to the standing
16 committees of the senate and house of representatives having
17 jurisdiction over the Medicaid program; and

18 (2) if the commission has determined that the
19 initiative is not cost-effective or will not improve quality of
20 care under the Medicaid program, the commission may not implement
21 the initiative.

22 SECTION 2. Not later than January 1, 2014, the Health and
23 Human Services Commission shall conduct an analysis and submit a
24 final report on the clinical initiatives required under Section
25 538.0521, Government Code, as added by this Act.

26 SECTION 3. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2013.