

By: Bonnen of Galveston

H.B. No. 2359

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of health care compensation and a limitation on the range of compensation to different health care providers performing the same service.

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

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1470 to read as follows:

CHAPTER 1470. DISCLOSURE OF PAYMENT AND COMPENSATION METHODOLOGY

Sec. 1470.001. DEFINITIONS. In this chapter, unless the context otherwise requires:

(1) "Edit" means a practice or procedure under which an adjustment is made regarding procedure codes that results in:

(A) payment for some, but not all, of the health care procedures performed under a procedure code;

(B) payment made under a different procedure code;

(C) a reduced payment as a result of services provided to a patient that are claimed under more than one procedure code on the same service date;

(D) a reduced payment related to a modifier used with a procedure code; or

(E) a reduced payment based on multiple units of the same procedure code billed for a single date of service.

(2) "Health benefit plan issuer" means:

1 (A) an insurance company, association,
2 organization, group hospital service corporation, health
3 maintenance organization, or pharmacy benefit manager that
4 delivers or issues for delivery an individual, group, blanket, or
5 franchise insurance policy or insurance agreement, a group hospital
6 service contract, or an evidence of coverage that provides health
7 insurance or health care benefits and includes:

8 (i) a life, health, or accident insurance
9 company operating under Chapter 841 or 982;

10 (ii) a general casualty insurance company
11 operating under Chapter 861;

12 (iii) a fraternal benefit society operating
13 under Chapter 885;

14 (iv) a mutual life insurance company
15 operating under Chapter 882;

16 (v) a local mutual aid association
17 operating under Chapter 886;

18 (vi) a statewide mutual assessment company
19 operating under Chapter 881;

20 (vii) a mutual assessment company or mutual
21 assessment life, health, and accident association operating under
22 Chapter 887;

23 (viii) a mutual insurance company operating
24 under Chapter 883 that writes coverage other than life insurance;

25 (ix) a Lloyd's plan operating under Chapter
26 941;

27 (x) a reciprocal exchange operating under

1 Chapter 942;

2 (xi) a stipulated premium insurance company
3 operating under Chapter 884;

4 (xii) an exchange operating under Chapter
5 942;

6 (xiii) a Medicare supplemental policy as
7 defined by Section 1882(g)(1), Social Security Act (42 U.S.C.
8 Section 1395ss(g)(1);

9 (xiv) a Medicaid managed care program
10 operated under Chapter 533, Government Code;

11 (xv) a health maintenance organization
12 operating under Chapter 843;

13 (xvi) a multiple employer welfare
14 arrangement that holds a certificate of authority under Chapter
15 846; and

16 (xvii) an approved nonprofit health
17 corporation that holds a certificate of authority under Chapter
18 844;

19 (B) the state Medicaid program operated under
20 Chapter 32, Human Resources Code, or the state child health plan or
21 health benefits plan for children under Chapter 62 or 63, Health and
22 Safety Code;

23 (C) the Employees Retirement System of Texas or
24 another entity issuing or administering a basic coverage plan under
25 Chapter 1551;

26 (D) the Teacher Retirement System of Texas or
27 another entity issuing or administering a basic plan under Chapter

1 1575 or a primary care coverage plan under Chapter 1579;

2 (E) The Texas A&M University System or The
3 University of Texas System or another entity issuing or
4 administering basic coverage under Chapter 1601; and

5 (F) an entity issuing or administering medical
6 benefits provided under a workers' compensation insurance policy or
7 otherwise under Title 5, Labor Code.

8 (3) "Health care contract" means a contract entered
9 into or renewed between a health care contractor and a physician or
10 health care provider for the delivery of health care services to
11 others.

12 (4) "Health care contractor" means an individual or
13 entity that has as a business purpose contracting with physicians
14 or health care providers for the delivery of health care services.
15 The term includes a health benefit plan issuer, an administrator
16 regulated under Chapter 4151, and a pharmacy benefit manager that
17 administers or manages prescription drug benefits.

18 (5) "Health care provider" means an individual or
19 entity that furnishes goods or services under a license,
20 certificate, registration, or other authority issued by this state
21 to diagnose, prevent, alleviate, or cure a human illness or injury.
22 The term includes a physician or a hospital or other health care
23 facility.

24 (6) "Physician" means:

25 (A) an individual licensed to engage in the
26 practice of medicine in this state; or

27 (B) an entity organized under Subchapter B,

1 Chapter 162, Occupations Code.

2 (7) "Procedure code" means an alphanumeric code used
3 to identify a specific health procedure performed by a health care
4 provider. The term includes:

5 (A) the American Medical Association's Current
6 Procedural Terminology code, also known as the "CPT code";

7 (B) the Centers for Medicare and Medicaid
8 Services Healthcare Common Procedure Coding System; and

9 (C) other analogous codes published by national
10 organizations and recognized by the commissioner.

11 (8) "Same service" means health care procedures
12 performed or billed under the same procedure code.

13 Sec. 1470.002. DEFINITION OF MATERIAL CHANGE. For purposes
14 of this chapter, "material change" means a change to a contract that
15 decreases the health care provider's payment or compensation.

16 Sec. 1470.003. APPLICABILITY OF CHAPTER. (a) This chapter
17 does not apply to an employment contract or arrangement between
18 health care providers.

19 (b) Notwithstanding Subsection (a), this chapter applies to
20 contracts for health care services between a medical group and
21 other medical groups.

22 Sec. 1470.004. RULEMAKING AUTHORITY. The commissioner may
23 adopt reasonable rules as necessary to implement the purposes and
24 provisions of this chapter.

25 Sec. 1470.005. DISCLOSURE TO THIRD PARTY. A health care
26 contract may not preclude the use of the contract or disclosure of
27 the contract to a third party to enforce this chapter or other state

1 or federal law. The third party is bound by any applicable
2 confidentiality requirements, including those stated in the
3 contract.

4 Sec. 1470.006. REQUIRED DISCLOSURE AND PERMISSIBLE RANGE OF
5 PAYMENT AND COMPENSATION. (a) Each health care contract must
6 include a disclosure form that states, in plain language, payment
7 and compensation terms. The form must include information
8 sufficient for a health care provider to determine the compensation
9 or payment for the provider's services.

10 (b) The disclosure form under Subsection (a) must include:

11 (1) the manner of payment, such as fee-for-service,
12 capitation, or risk sharing;

13 (2) the effect of edits, if any, on payment or
14 compensation; and

15 (3) a fee schedule that shows:

16 (A) the compensation or payments to the health
17 care provider for procedure codes reasonably expected to be billed
18 by the health care provider for services provided under all
19 contracts used by the health care contractor; and

20 (B) the range of compensation or payments to
21 different health care providers performing the same service for
22 procedure codes reasonably expected to be billed by the health care
23 provider for services provided under all contracts used by the
24 health care contractor and, on request, the range of compensation
25 or payments for other procedure codes used by, or which may be used
26 by, the health care provider.

27 (c) A health care contractor may not pay an amount of

1 compensation or payments to a health care provider that is less than
2 75 percent of the amount paid for the same service to another health
3 care provider that holds the same license, certificate, or other
4 authority, regardless of the location of the health care providers
5 and of whether the health care providers are performing services
6 under the same contract.

7 (d) A health care contractor may satisfy the requirement
8 under Subsection (b)(2) regarding the effect of edits by providing
9 a clearly understandable, readily available mechanism that allows a
10 health care provider to determine the effect of an edit on payment
11 or compensation before a service is provided or a claim is
12 submitted.

13 (e) The fee schedule described by Subsection (b)(3) must
14 include, as applicable, service or procedure codes and the
15 associated payment or compensation for each code. The fee schedule
16 may be provided electronically.

17 (f) A health care contractor shall provide the fee schedule
18 described by Subsection (b)(3) to an affected health care provider
19 when a material change related to payment or compensation occurs.
20 Additionally, a health care provider may request that a written fee
21 schedule be provided up to twice annually, and the health care
22 contractor must provide the written fee schedule promptly.

23 Sec. 1470.007. ENFORCEMENT. (a) The commissioner shall
24 adopt rules as necessary to enforce the provisions of this chapter.

25 (b) A violation of Section 1470.006 is a deceptive act or
26 practice in insurance under Subchapter B, Chapter 541.

27 Sec. 1470.008. WAIVER OF FEDERAL LAW. If the commissioner

1 determines that a waiver of federal law or other federal
2 authorization would facilitate implementation of this chapter, the
3 commissioner may request the waiver or authorization.

4 SECTION 2. Chapter 1470, Insurance Code, as added by this
5 Act, applies only to a health care contract that is entered into or
6 renewed on or after January 1, 2014. A health care contract entered
7 into before January 1, 2014, is governed by the law as it existed
8 immediately before the effective date of this Act, and that law is
9 continued in effect for that purpose.

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