

A BILL TO BE ENTITLED

AN ACT

relating to the provision and delivery of certain health and human services in this state, including the provision of those services through the Medicaid program and the prevention of fraud, waste, and abuse in that program and other programs.

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

SECTION 1. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0082 to read as follows:

Sec. 531.0082. DATA ANALYSIS UNIT. (a) The executive commissioner shall establish a data analysis unit within the commission to establish, employ, and oversee data analysis processes designed to:

(1) improve contract management;

(2) detect data trends; and

(3) identify anomalies relating to service utilization, providers, payment methodologies, and compliance with requirements in Medicaid and child health plan program managed care and fee-for-service contracts.

(b) The commission shall assign staff to the data analysis unit who perform duties only in relation to the unit.

(c) The data analysis unit shall use all available data and tools for data analysis when establishing, employing, and overseeing data analysis processes under this section.

(d) Not later than the 30th day following the end of each

1 calendar quarter, the data analysis unit shall provide an update on
2 the unit's activities and findings to the governor, the lieutenant
3 governor, the speaker of the house of representatives, the chair of
4 the Senate Finance Committee, the chair of the House Appropriations
5 Committee, and the chairs of the standing committees of the senate
6 and house of representatives having jurisdiction over the Medicaid
7 program.

8 SECTION 2. Subchapter B, Chapter 531, Government Code, is
9 amended by adding Section 531.02115 to read as follows:

10 Sec. 531.02115. MARKETING ACTIVITIES BY PROVIDERS
11 PARTICIPATING IN MEDICAID OR CHILD HEALTH PLAN PROGRAM. (a) A
12 provider participating in the Medicaid or child health plan
13 program, including a provider participating in the network of a
14 managed care organization that contracts with the commission to
15 provide services under the Medicaid or child health plan program,
16 may not engage in any marketing activity, including any
17 dissemination of material or other attempt to communicate, that:

18 (1) involves unsolicited personal contact, including
19 by door-to-door solicitation, solicitation at a child-care
20 facility or other type of facility, direct mail, or telephone, with
21 a Medicaid client or a parent whose child is enrolled in the
22 Medicaid or child health plan program;

23 (2) is directed at the client or parent solely because
24 the client or the parent's child is receiving benefits under the
25 Medicaid or child health plan program; and

26 (3) is intended to influence the client's or parent's
27 choice of provider.

1 (b) In addition to the requirements of Subsection (a), a
2 provider participating in the network of a managed care
3 organization described by that subsection must comply with the
4 marketing guidelines established by the commission under Section
5 533.008.

6 (c) Nothing in this section prohibits:

7 (1) a provider participating in the Medicaid or child
8 health plan program from:

9 (A) engaging in a marketing activity, including
10 any dissemination of material or other attempt to communicate, that
11 is intended to influence the choice of provider by a Medicaid client
12 or a parent whose child is enrolled in the Medicaid or child health
13 plan program, if the marketing activity involves only the general
14 dissemination of information, including by television, radio,
15 newspaper, or billboard advertisement, and does not involve
16 unsolicited personal contact;

17 (B) as permitted under the provider's contract,
18 engaging in the dissemination of material or another attempt to
19 communicate with a Medicaid client or a parent whose child is
20 enrolled in the Medicaid or child health plan program, including
21 communication in person or by direct mail or telephone, for the
22 purpose of:

- 23 (i) providing an appointment reminder;
24 (ii) distributing promotional health
25 materials;
26 (iii) providing information about the types
27 of services offered by the provider; or

1 (iv) coordinating patient care; or

2 (C) engaging in a marketing activity that has
3 been submitted for review and obtained a notice of prior
4 authorization from the commission under Subsection (d); or

5 (2) a provider participating in the Medicaid STAR +
6 PLUS program from, as permitted under the provider's contract,
7 engaging in a marketing activity, including any dissemination of
8 material or other attempt to communicate, that is intended to
9 educate a Medicaid client about available long-term care services
10 and supports.

11 (d) The commission shall establish a process by which
12 providers may submit proposed marketing activities for review and
13 prior authorization to ensure that providers are in compliance with
14 the requirements of this section and, if applicable, Section
15 533.008, or to determine whether the providers are exempt from a
16 requirement of this section and, if applicable, Section 533.008.
17 The commission may grant or deny a provider's request for
18 authorization to engage in a proposed marketing activity.

19 (e) The executive commissioner shall adopt rules as
20 necessary to implement this section, including rules relating to
21 provider marketing activities that are exempt from the requirements
22 of this section and, if applicable, Section 533.008.

23 SECTION 3. Section 531.02414, Government Code, is amended
24 by amending Subsection (d) and adding Subsections (g) and (h) to
25 read as follows:

26 (d) Subject to Section 533.00254, the ~~[The]~~ commission may
27 contract with a public transportation provider, as defined by

1 Section 461.002, Transportation Code, a private transportation
2 provider, or a regional transportation broker for the provision of
3 public transportation services, as defined by Section 461.002,
4 Transportation Code, under the medical transportation program.

5 (g) The commission shall enter into a memorandum of
6 understanding with the Texas Department of Motor Vehicles and the
7 Department of Public Safety for purposes of obtaining the motor
8 vehicle registration and driver's license information of a provider
9 of medical transportation services, including a regional
10 contracted broker and a subcontractor of the broker, to confirm
11 that the provider complies with applicable requirements adopted
12 under Subsection (e).

13 (h) The commission shall establish a process by which
14 providers of medical transportation services, including providers
15 under a managed transportation delivery model, that contract with
16 the commission may request and obtain the information described
17 under Subsection (g) for purposes of ensuring that subcontractors
18 providing medical transportation services meet applicable
19 requirements adopted under Subsection (e).

20 SECTION 4. Subchapter B, Chapter 531, Government Code, is
21 amended by adding Section 531.076 to read as follows:

22 Sec. 531.076. REVIEW OF PRIOR AUTHORIZATION AND UTILIZATION
23 REVIEW PROCESSES. (a) The commission shall periodically review in
24 accordance with an established schedule the prior authorization and
25 utilization review processes within the Medicaid fee-for-service
26 delivery model to determine if those processes need modification to
27 reduce authorizations of unnecessary services and inappropriate

1 use of services. The commission shall also monitor the processes
2 described in this subsection for anomalies and, on identification
3 of an anomaly in a process, shall review the process for
4 modification earlier than scheduled.

5 (b) The commission shall monitor Medicaid managed care
6 organizations to ensure that the organizations are using prior
7 authorization and utilization review processes to reduce
8 authorizations of unnecessary services and inappropriate use of
9 services.

10 SECTION 5. Section 531.102, Government Code, is amended by
11 amending Subsection (a) and adding Subsection (1) to read as
12 follows:

13 (a) The [~~commission, through the~~] commission's office of
14 inspector general[~~7~~] is responsible for the prevention, detection,
15 audit, inspection, review, and investigation of fraud, waste, and
16 abuse in the provision and delivery of all health and human services
17 in the state, including services through any state-administered
18 health or human services program that is wholly or partly federally
19 funded, and the enforcement of state law relating to the provision
20 of those services. The commission may obtain any information or
21 technology necessary to enable the office to meet its
22 responsibilities under this subchapter or other law.

23 (1) Nothing in this section limits the authority of any
24 other state agency or governmental entity.

25 SECTION 6. (a) Subchapter A, Chapter 533, Government Code,
26 is amended by adding Section 533.00254 to read as follows:

27 Sec. 533.00254. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM

1 SERVICES. (a) In this section:

2 (1) "Managed transportation organization" means:

3 (A) a rural or urban transit district created
4 under Chapter 458, Transportation Code;

5 (B) a public transportation provider defined by
6 Section 461.002, Transportation Code;

7 (C) a regional contracted broker defined by
8 Section 531.02414;

9 (D) a local private transportation provider
10 approved by the commission to provide Medicaid nonemergency medical
11 transportation services; or

12 (E) any other entity the commission determines
13 meets the requirements of this section.

14 (2) "Medical transportation program" has the meaning
15 assigned by Section 531.02414.

16 (3) "Transportation service area provider" means a
17 for-profit or nonprofit entity that provides demand response,
18 curb-to-curb, nonemergency transportation under the medical
19 transportation program.

20 (b) Subject to Subsection (h), the commission shall provide
21 medical transportation program services on a regional basis through
22 a managed transportation delivery model using managed
23 transportation organizations and providers, as appropriate, that:

24 (1) operate under a capitated rate system;

25 (2) assume financial responsibility under a full-risk
26 model;

27 (3) operate a call center;

1 (4) use fixed routes when available and appropriate;
2 and

3 (5) agree to provide data to the commission if the
4 commission determines that the data is required to receive federal
5 matching funds.

6 (c) The commission shall procure managed transportation
7 organizations under the medical transportation program through a
8 competitive bidding process.

9 (d) A managed transportation organization that participates
10 in the medical transportation program must attempt to contract with
11 medical transportation providers that:

12 (1) are considered significant traditional providers,
13 as defined by rule by the executive commissioner;

14 (2) meet the minimum quality and efficiency measures
15 required under Subsection (g) and other requirements that may be
16 imposed by the managed transportation organization; and

17 (3) agree to accept the prevailing contract rate of
18 the managed transportation organization.

19 (e) To the extent allowed under federal law, a managed
20 transportation organization may own, operate, and maintain a fleet
21 of vehicles or contract with an entity that owns, operates, and
22 maintains a fleet of vehicles.

23 (f) The commission shall consider the ownership, operation,
24 and maintenance of a fleet of vehicles by a managed transportation
25 organization to be a related-party transaction for purposes of
26 applying experience rebates, administrative costs, and other
27 administrative controls determined by the commission.

1 (g) The commission shall require that managed
2 transportation providers participating in the medical
3 transportation program meet minimum quality and efficiency
4 measures as determined by the commission.

5 (h) The commission may delay providing medical
6 transportation program services through a managed transportation
7 delivery model in areas of this state in which the commission on
8 September 1, 2013, is operating a full-risk transportation broker
9 model.

10 (b) The Health and Human Services Commission shall begin
11 providing medical transportation program services through the
12 delivery model required by Section 533.00254, Government Code, as
13 added by this section, not later than September 1, 2014, subject to
14 Subsection (h), Section 533.00254, Government Code, as added by
15 this section.

16 SECTION 7. Section 773.0571, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The
19 department shall issue to an emergency medical services provider a
20 license that is valid for two years if the department is satisfied
21 that:

22 (1) the emergency medical services provider has
23 adequate staff to meet the staffing standards prescribed by this
24 chapter and the rules adopted under this chapter;

25 (2) each emergency medical services vehicle is
26 adequately constructed, equipped, maintained, and operated to
27 render basic or advanced life support services safely and

1 efficiently;

2 (3) the emergency medical services provider offers
3 safe and efficient services for emergency prehospital care and
4 transportation of patients; ~~and~~

5 (4) the emergency medical services provider has a
6 letter of credit evidencing that the provider has sufficient
7 financial resources;

8 (5) the emergency medical services provider employs a
9 medical director; and

10 (6) the emergency medical services provider complies
11 with the rules adopted by the board under this chapter.

12 SECTION 8. Section 32.0322, Human Resources Code, is
13 amended by amending Subsection (b) and adding Subsections (b-1),
14 (e), and (f) to read as follows:

15 (b) Subject to Subsections (b-1) and (e), the ~~[The]~~
16 executive commissioner of the Health and Human Services Commission
17 by rule shall establish criteria for the department or the
18 commission's office of inspector general to suspend a provider's
19 billing privileges under the medical assistance program, revoke a
20 provider's enrollment under the program, or deny a person's
21 application to enroll as a provider under the program based on:

22 (1) the results of a criminal history check;

23 (2) any exclusion or debarment of the provider from
24 participation in a state or federally funded health care program;

25 (3) the provider's failure to bill for medical
26 assistance or refer clients for medical assistance within a
27 12-month period; or

1 (4) any of the provider screening or enrollment
2 provisions contained in 42 C.F.R. Part 455, Subpart E.

3 (b-1) In adopting rules under this section, the executive
4 commissioner of the Health and Human Services Commission shall
5 require revocation of a provider's enrollment or denial of a
6 person's application for enrollment as a provider under the medical
7 assistance program if the person has been excluded or debarred from
8 participation in a state or federally funded health care program as
9 a result of:

10 (1) a criminal conviction or finding of civil or
11 administrative liability for committing a fraudulent act, theft,
12 embezzlement, or other financial misconduct under a state or
13 federally funded health care program; or

14 (2) a criminal conviction for committing an act under
15 a state or federally funded health care program that caused bodily
16 injury to:

17 (A) a person who is 65 years of age or older;

18 (B) a person with a disability; or

19 (C) a person under 18 years of age.

20 (e) The department may reinstate a provider's enrollment
21 under the medical assistance program or grant a person's previously
22 denied application to enroll as a provider, including a person
23 described by Subsection (b-1), if the department finds:

24 (1) good cause to determine that it is in the best
25 interest of the medical assistance program; and

26 (2) the person has not committed an act that would
27 require revocation of a provider's enrollment or denial of a

1 person's application to enroll since the person's enrollment was
2 revoked or application was denied, as appropriate.

3 (f) The department must support a determination made under
4 Subsection (e) with written findings of good cause for the
5 determination.

6 SECTION 9. Section 36.005, Human Resources Code, is amended
7 to read as follows:

8 Sec. 36.005. SUSPENSION OR REVOCATION OF AGREEMENT;
9 PROFESSIONAL DISCIPLINE. (a) A health and human services agency,
10 as defined by Section 531.001, Government Code:

11 (1) shall suspend or revoke:

12 (A) a provider agreement between the agency and a
13 person, other than a person who operates a nursing facility or an
14 ICF-MR facility, found liable under Section 36.052; and

15 (B) a permit, license, or certification granted
16 by the agency to a person, other than a person who operates a
17 nursing facility or an ICF-MR facility, found liable under Section
18 36.052; and

19 (2) may suspend or revoke:

20 (A) a provider agreement between the agency and a
21 person who operates a nursing facility or an ICF-MR facility and who
22 is found liable under Section 36.052; or

23 (B) a permit, license, or certification granted
24 by the agency to a person who operates a nursing facility or an
25 ICF-MR facility and who is found liable under Section 36.052.

26 (b) A provider found liable under Section 36.052 for an
27 unlawful act may not, for a period of 10 years, provide or arrange

1 to provide health care services under the Medicaid program or
2 supply or sell, directly or indirectly, a product to or under the
3 Medicaid program. The executive commissioner of the Health and
4 Human Services Commission may by rule:

5 (1) provide for a period of ineligibility longer than
6 10 years; or

7 (2) grant a provider a full or partial exemption from
8 the period of ineligibility required by this subsection if the
9 executive commissioner finds that enforcement of the full period of
10 ineligibility is harmful to the Medicaid program or a beneficiary
11 of the program.

12 (b-1) The period of ineligibility begins on the date on
13 which the judgment finding the provider liable under Section 36.052
14 is entered by the trial court [~~determination that the provider is~~
15 ~~liable becomes final~~].

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

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

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

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

1 final.

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

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

11 SECTION 10. Subchapter C, Chapter 36, Human Resources Code,
12 is amended by adding Section 36.1041 to read as follows:

13 Sec. 36.1041. NOTIFICATION OF SETTLEMENT. (a) Not later
14 than the 10th day after the date a person described by Section
15 36.104(b) reaches a proposed settlement agreement with a defendant,
16 the person must notify the attorney general. If the person fails to
17 notify the attorney general as required by this section, the
18 proposed settlement is void.

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

23 (c) On filing of objections under Subsection (b), the court
24 shall conduct a hearing. On a showing of good cause, the hearing
25 may be held in camera. If, after the hearing, the court determines
26 that the proposed settlement is fair, adequate, and reasonable
27 under all the circumstances, the court may allow the parties to

1 settle notwithstanding the attorney general's objection.

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

7 SECTION 11. (a) The Health and Human Services Commission,
8 in cooperation with the Department of State Health Services and the
9 Texas Medical Board, shall:

10 (1) as soon as practicable after the effective date of
11 this Act, conduct a thorough review of and solicit stakeholder
12 input regarding the laws and policies related to the use of
13 non-emergent services provided by ambulance providers under the
14 medical assistance program established under Chapter 32, Human
15 Resources Code;

16 (2) not later than January 1, 2014, make
17 recommendations to the legislature regarding suggested changes to
18 the law that would reduce the incidence of and opportunities for
19 fraud, waste, and abuse with respect to the activities described by
20 Subdivision (1) of this subsection; and

21 (3) amend the policies described by Subdivision (1) of
22 this subsection as necessary to assist in accomplishing the goals
23 described by Subdivision (2) of this subsection.

24 (b) This section expires September 1, 2015.

25 SECTION 12. (a) The Department of State Health Services,
26 in cooperation with the Health and Human Services Commission and
27 the Texas Medical Board, shall:

1 (1) as soon as practicable after the effective date of
2 this Act, conduct a thorough review of and solicit stakeholder
3 input regarding the laws and policies related to the licensure of
4 nonemergency transportation providers;

5 (2) not later than January 1, 2014, make
6 recommendations to the legislature regarding suggested changes to
7 the law that would reduce the incidence of and opportunities for
8 fraud, waste, and abuse with respect to the activities described by
9 Subdivision (1) of this subsection; and

10 (3) amend the policies described by Subdivision (1) of
11 this subsection as necessary to assist in accomplishing the goals
12 described by Subdivision (2) of this subsection.

13 (b) This section expires September 1, 2015.

14 SECTION 13. (a) The Texas Medical Board, in cooperation
15 with the Department of State Health Services and the Health and
16 Human Services Commission, shall:

17 (1) as soon as practicable after the effective date of
18 this Act, conduct a thorough review of and solicit stakeholder
19 input regarding the laws and policies related to:

20 (A) the delegation of health care services by
21 physicians or medical directors to qualified emergency medical
22 services personnel; and

23 (B) physicians' assessment of patients' needs for
24 purposes of ambulatory transfer or transport or other purposes;

25 (2) not later than January 1, 2014, make
26 recommendations to the legislature regarding suggested changes to
27 the law that would reduce the incidence of and opportunities for

1 fraud, waste, and abuse with respect to the activities described by
2 Subdivision (1) of this subsection; and

3 (3) amend the policies described by Subdivision (1) of
4 this subsection as necessary to assist in accomplishing the goals
5 described by Subdivision (2) of this subsection.

6 (b) This section expires September 1, 2015.

7 SECTION 14. (a) This section is a clarification of
8 legislative intent regarding Subsection (s), Section 32.024, Human
9 Resources Code, and a validation of certain Health and Human
10 Services Commission acts and decisions.

11 (b) In 1999, the legislature became aware that certain
12 children enrolled in the Medicaid program were receiving treatment
13 under the program outside the presence of a parent or another
14 responsible adult. The treatment of unaccompanied children under
15 the Medicaid program resulted in the provision of unnecessary
16 services to those children, the exposure of those children to
17 unnecessary health and safety risks, and the submission of
18 fraudulent claims by Medicaid providers.

19 (c) In addition, in 1999, the legislature became aware of
20 allegations that certain Medicaid providers were offering money and
21 other gifts in exchange for a parent's or child's consent to receive
22 unnecessary services under the Medicaid program. In some cases, a
23 child was offered money or gifts in exchange for the parent's or
24 child's consent to have the child transported to a different
25 location to receive unnecessary services. In some of those cases,
26 once transported, the child received no treatment and was left
27 unsupervised for hours before being transported home. The

1 provision of money and other gifts by Medicaid providers in
2 exchange for parents' or children's consent to services deprived
3 those parents and children of the right to choose a Medicaid
4 provider without improper inducement.

5 (d) In response, in 1999, the legislature enacted Chapter
6 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session,
7 1999, which amended Section 32.024, Human Resources Code, by
8 amending Subsection (s) and adding Subsection (s-1). As amended,
9 Subsection (s), Section 32.024, Human Resources Code, requires that
10 a child's parent or guardian or another adult authorized by the
11 child's parent or guardian accompany the child at a visit or
12 screening under the early and periodic screening, diagnosis, and
13 treatment program in order for a Medicaid provider to be reimbursed
14 for services provided at the visit or screening. As filed, the bill
15 required a child's parent or guardian to accompany the child. The
16 house committee report added the language allowing an adult
17 authorized by the child's parent or guardian to accompany the child
18 in order to accommodate a parent or guardian for whom accompanying
19 the parent's or guardian's child to each visit or screening would be
20 a hardship.

21 (e) The principal purposes of Chapter 766 (H.B. 1285), Acts
22 of the 76th Legislature, Regular Session, 1999, were to prevent
23 Medicaid providers from committing fraud, encourage parental
24 involvement in and management of health care of children enrolled
25 in the early and periodic screening, diagnosis, and treatment
26 program, and ensure the safety of children receiving services under
27 the Medicaid program. The addition of the language allowing an

1 adult authorized by a child's parent or guardian to accompany the
2 child furthered each of those purposes.

3 (f) The legislature, in amending Subsection (s), Section
4 32.024, Human Resources Code, understood that:

5 (1) the effectiveness of medical, dental, and therapy
6 services provided to a child improves when the child's parent or
7 guardian actively participates in the delivery of those services;

8 (2) a parent is responsible for the safety and
9 well-being of the parent's child, and that a parent cannot casually
10 delegate this responsibility to a stranger;

11 (3) a parent may not always be available to accompany
12 the parent's child at a visit to the child's doctor, dentist, or
13 therapist; and

14 (4) Medicaid providers and their employees and
15 associates have a financial interest in the delivery of services
16 under the Medicaid program and, accordingly, cannot fulfill the
17 responsibilities of a parent or guardian when providing services to
18 a child.

19 (g)(1) On March 15, 2012, the Health and Human Services
20 Commission notified certain Medicaid providers that state law and
21 commission policy require a child's parent or guardian or another
22 properly authorized adult to accompany a child receiving services
23 under the Medicaid program. This notice followed the commission's
24 discovery that some providers were transporting children from
25 schools to therapy clinics and other locations to receive therapy
26 services. Although the children were not accompanied by a parent or
27 guardian during these trips, the providers were obtaining

1 reimbursement for the trips under the Medicaid medical
2 transportation program. The commission clarified in the notice
3 that, in order for a provider to be reimbursed for transportation
4 services provided to a child under the Medicaid medical
5 transportation program, the child must be accompanied by the
6 child's parent or guardian or another adult who is not the provider
7 and whom the child's parent or guardian has authorized to accompany
8 the child by submitting signed, written consent to the provider.

9 (2) In May 2012, a lawsuit was filed to enjoin the Health and
10 Human Services Commission from enforcing Subsection (s), Section
11 32.024, Human Resources Code, and 1 T.A.C. Section 380.207, as
12 interpreted in certain notices issued by the commission. A state
13 district court enjoined the commission from denying eligibility to
14 a child for transportation services under the Medicaid medical
15 transportation program if the child's parent or guardian does not
16 accompany the child, provided that the child's parent or guardian
17 authorizes any other adult to accompany the child. The court also
18 enjoined the commission from requiring as a condition for a
19 provider to be reimbursed for services provided to a child during a
20 visit or screening under the early and periodic screening,
21 diagnosis, and treatment program that the child be accompanied by
22 the child's parent or guardian, provided that the child's parent or
23 guardian authorizes another adult to accompany the child. The
24 state has filed a notice of appeal of the court's order.

25 (3) The legislature declares that a rule or policy
26 adopted by the Health and Human Services Commission before the
27 effective date of this Act to require that, in order for a Medicaid

1 provider to be reimbursed for services provided to a child under the
2 early and periodic screening, diagnosis, and treatment program or
3 the medical transportation program, the child must be accompanied
4 by the child's parent or guardian or another adult whom the child's
5 parent or guardian has authorized to accompany the child is
6 conclusively presumed, as of the date the rule or policy was
7 adopted, to be a valid exercise of the commission's authority and
8 consistent with the intent of the legislature, provided that the
9 rule or policy:

10 (A) was adopted pursuant to Subsection (s),
11 Section 32.024, Human Resources Code; and

12 (B) prohibits the child's parent or guardian from
13 authorizing the provider or the provider's employee or associate as
14 an adult who may accompany the child.

15 (4) Subdivision (3) of this subsection does not apply
16 to:

17 (A) an action or decision that was void at the
18 time the action was taken or the decision was made;

19 (B) an action or decision that violates federal
20 law or the terms of a federal waiver; or

21 (C) an action or decision that, under a statute
22 of this state or the United States, was a misdemeanor or felony at
23 the time the action was taken or the decision was made.

24 (5) This section does not apply to:

25 (A) an action or decision that was void at the
26 time the action was taken or the decision was made;

27 (B) an action or decision that violates federal

1 law or the terms of a federal waiver; or

2 (C) an action or decision that, under a statute
3 of this state or the United States, was a misdemeanor or felony at
4 the time the action was taken or the decision was made.

5 SECTION 15. As soon as practicable after the effective date
6 of this Act, the executive commissioner of the Health and Human
7 Services Commission shall establish the data analysis unit required
8 under Section 531.0082, Government Code, as added by this Act. The
9 data analysis unit shall provide the initial update required under
10 Subsection (d), Section 531.0082, Government Code, as added by this
11 Act, not later than the 30th day after the last day of the first
12 complete calendar quarter occurring after the date the unit is
13 established.

14 SECTION 16. Section 773.0571, Health and Safety Code, as
15 amended by this Act, applies only to an application for an original
16 emergency medical services provider license submitted to the
17 Department of State Health Services on or after the effective date
18 of this Act. An application submitted before the effective date of
19 this Act, or the renewal of a license issued before that date, is
20 governed by the law in effect immediately before the effective date
21 of this Act, and that law is continued in effect for that purpose.

22 SECTION 17. If before implementing any provision of this
23 Act a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 18. This Act takes effect September 1, 2013.