

By: Van de Putte

S.B. No. 1542

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 QUALITY IMPROVEMENT PROCESS FOR CLINICAL INITIATIVES

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;

(2) replace or affect the process of determining Medicaid benefits, including the approval process for receiving benefits for durable medical equipment, or any applicable approval process required for reimbursement for services or other equipment under the Medicaid program;

(3) implement a clinical initiative or associated rule or program policy that is otherwise prohibited under state or

1 federal law; or

2 (4) implement any initiative that would expand
3 eligibility for benefits under the Medicaid program.

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

6 SUBCHAPTER B. MEDICAID QUALITY IMPROVEMENT PROCESS TO ASSESS
7 CERTAIN CLINICAL INITIATIVES

8 Sec. 538.051. MEDICAID QUALITY IMPROVEMENT PROCESS. The
9 commission shall, according to the provisions of this chapter,
10 develop and implement a quality improvement process by which the
11 commission:

12 (1) receives suggestions for clinical initiatives
13 designed to improve:

14 (A) the quality of care provided under the
15 Medicaid program; and

16 (B) the cost-effectiveness of the Medicaid
17 program;

18 (2) conducts a preliminary review under Section
19 538.053(4) of each suggestion received under Section 538.052 to
20 determine whether the suggestion warrants further consideration
21 and analysis; and

22 (3) conducts an analysis under Section 538.054 of
23 clinical initiative suggestions that are selected for analysis
24 under Subdivision (2) and of required clinical initiatives under
25 Section 538.0521.

26 Sec. 538.052. SOLICITATION OF SUGGESTIONS FOR CLINICAL
27 INITIATIVES. (a) Subject to Subsection (b), the commission shall

solicit and accept suggestions for clinical initiatives, in either written or electronic form, from:

- (1) a member of the state legislature;
- (2) the executive commissioner;
- (3) the commissioner of the Department of Aging and Disability Services;
- (4) the commissioner of the Department of State Health Services;
- (5) the commissioner of the Department of Family and Protective Services;
- (6) the commissioner of the Department of Assistive and Rehabilitative Services;
- (7) the medical care advisory committee established under Section 32.022, Human Resources Code;
- (8) the physician payment advisory committee created under Section 32.022(d), Human Resources Code; and
- (9) the Electronic Health Information Exchange System Advisory Committee established under Section 531.904.

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

- (1) is undergoing clinical trials; or
- (2) expands a health care provider's scope of practice beyond the law governing the provider's practice.

Sec. 538.0521. REQUIRED CLINICAL INITIATIVES. (a) In addition to the clinical initiatives selected for analysis under Section 538.054, the commission shall conduct an analysis and issue a final report in accordance with the requirements of this chapter

1 for the following:

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

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

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

10 Sec. 538.053. CLINICAL INITIATIVE EVALUATION PROCESS. The
11 commission shall establish and implement an evaluation process for
12 the submission, preliminary review, analysis, and approval of a
13 clinical initiative. The process must:

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

16 (2) require that a suggestion for a clinical
17 initiative selected for analysis under Section 538.054 be published
18 on the Internet website created under Section 538.056 not later
19 than the 30th day after the date on which the state Medicaid
20 director receives the suggestion;

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

24 (4) allow the commission to conduct with the
25 assistance of appropriate advisory committees or similar groups as
26 determined by the commission a preliminary review of each suggested
27 clinical initiative to determine whether the initiative warrants

1 further consideration and analysis under Section 538.054;

2 (5) limit the number of suggestions that receive
3 analysis under Section 538.054;

4 (6) require the commission to publish on the Internet
5 website created under Section 538.056 the criteria the commission
6 uses in the preliminary review under Subdivision (4) to determine
7 whether an initiative warrants analysis under Section 538.054;

8 (7) require commission employees to perform an
9 analysis of each suggested clinical initiative selected for
10 analysis in accordance with Section 538.054; and

11 (8) require the development and publication of a final
12 report in accordance with Section 538.055 on each clinical
13 initiative selected for analysis under Section 538.054 not later
14 than the 180th day after the date on which the state Medicaid
15 director receives the suggestion.

16 Sec. 538.054. ANALYSIS OF CLINICAL INITIATIVES. The
17 commission shall conduct an analysis of each clinical initiative
18 selected by the commission after having conducted the commission's
19 preliminary review under Section 538.053(4). The analysis required
20 under this section must include a review of:

21 (1) any public comments and submitted research
22 relating to the initiative;

23 (2) the available clinical research and historical
24 utilization information relating to the initiative;

25 (3) published medical literature relating to the
26 initiative;

27 (4) any adoption of the initiative by medical

societies or other clinical groups;

(5) whether the initiative has been implemented under:

(A) the Medicare program;

(B) another state medical assistance program; or

(C) a state-operated health care program,
including the child health plan program;

(6) the results of reports, research, pilot programs,
or clinical studies relating to the initiative conducted by:

(A) institutions of higher education, including
related medical schools;

(B) governmental entities and agencies; and

(C) private and nonprofit think tanks and
research groups;

(7) the impact that the initiative would have on the
Medicaid program if implemented in this state, including:

(A) an estimate of the number of recipients under
the Medicaid program that would be impacted by implementation of
the initiative; and

(B) a description of any potential cost savings
to the state that would result from implementation of the
initiative; and

(8) any statutory barriers to implementation of the
initiative.

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

1 (1) a final determination of:

2 (A) the feasibility of implementing the
3 initiative;

4 (B) the likely impact implementing the
5 initiative would have on the quality of care provided under the
6 Medicaid program; and

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

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

11 (3) an identification of any statutory barriers to
12 implementation of the initiative; and

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

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

18 (1) an explanation of the process for submission,
19 preliminary review, analysis, and approval of clinical initiatives
20 under this chapter;

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

23 (3) a copy of each initiative selected for analysis
24 under Section 538.054;

25 (4) the status of each initiative in the approval
26 process; and

27 (5) a copy of each final report prepared under this

1 chapter.

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

3 After the commission conducts an analysis of a clinical initiative
4 under Section 538.054:

5 (1) if the commission has determined that the
6 initiative is cost-effective and will improve the quality of care
7 under the Medicaid program, the commission may:

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

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

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

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

23 SECTION 3. If before implementing any provision of this Act
24 a state agency determines that a waiver or authorization from a
25 federal agency is necessary for implementation of that provision,
26 the agency affected by the provision shall request the waiver or
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

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