By: Smithee H.B. No. 1433

A BILL TO BE ENTITLED

AN ACT

relating to prompt payment of health care claims, including payment for immunizations, vaccines, and serums.

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

SECTION 1. Subchapter A, Chapter 16, Civil Practice and Remedies Code, is amended by adding Section 16.013 to read as follows:

Sec. 16.013. PROMPT PAYMENT OF HEALTH CARE CLAIMS. A person must bring a suit for failure to pay a clean claim in accordance with Subchapter J, Chapter 843, or Subchapter C, Chapter 1301, Insurance Code, not later than two years after the day the cause of action accrues. The cause of action accrues on the latest date provided by the applicable subchapter for determining whether the claim is payable and making the appropriate payment or notification.

SECTION 2. Section 843.337(a), Insurance Code, is amended to read as follows:

(a) A physician or provider must submit a claim for health care services to a health maintenance organization not later than the 95th day after the date the physician or provider provides the health care services for which the claim is made. A health maintenance organization shall accept as proof of timely filing:

(1) a claim filed in compliance with Subsection (e); or

(2) information from another health maintenance organization or any insurer authorized or eligible to engage in the business of insurance in this state showing that the physician or provider submitted the claim for health care services to the health maintenance organization or insurer in compliance with Subsection (e).

SECTION 3. Sections 843.342(a), (b), (d), and (e), Insurance Code, are amended to read as follows:

(a) Except as provided by this section, if a clean claim submitted to a health maintenance organization is payable and the health maintenance organization does not determine under this subchapter that the claim is payable and pay the claim on or before the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay the physician or provider making the claim the contracted rate owed on the claim plus a penalty in the amount of the lesser of:

(1) 50 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) $5,000 [~~$100,000~~].

(b) If the claim is paid on or after the 46th day and before the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty in the amount of the lesser of:

(1) 100 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) $10,000 [~~$200,000~~].

(d) Except as provided by this section, a health maintenance organization that determines under this subchapter that a claim is payable, pays only a portion of the amount of the claim on or before the date the health maintenance organization is required to make a determination or adjudication of the claim, and pays the balance of the contracted rate owed for the claim after that date shall pay to the physician or provider, in addition to the contracted amount owed, a penalty on the amount not timely paid in the amount of the lesser of:

(1) 50 percent of the underpaid amount; or

(2) $5,000 [~~$100,000~~].

(e) If the balance of the claim is paid on or after the 46th day and before the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty on the balance of the claim in the amount of the lesser of:

(1) 100 percent of the underpaid amount; or

(2) $10,000 [~~$200,000~~].

SECTION 4. Subchapter J, Chapter 843, Insurance Code, is amended by adding Section 843.3421 to read as follows:

Sec. 843.3421. PAYMENT APPEAL DEADLINE. If a contract between a health maintenance organization and a physician or provider directly or indirectly requires that a contractual dispute regarding a post-service payment denial or payment dispute be appealed, the health maintenance organization may not impose a deadline for filing the appeal that is less than 180 days after the

earlier of:

(1) the date of the initial payment or denial notice; or

(2) the latest date for making a payment or notification with respect to the claim under this subchapter.

SECTION 5. Subchapter J, Chapter 843, Insurance Code, is amended by adding Section 843.355 to read as follows:

Sec. 843.355. PAYMENT FOR IMMUNIZATIONS, VACCINES, AND SERUMS. (a) A contract between a health maintenance organization and a physician or provider must disclose the source of the information used to calculate a fee payment for an immunization, vaccine, or serum. The information must be made readily accessible to the physician or provider, and the contract must include an explanation of how the physician or provider may access the information.

(b) Notwithstanding Section 843.321(a)(3), a health maintenance organization is not required to notify a physician or provider, and a contract between a health maintenance organization and a physician or provider may not directly or indirectly require the health maintenance organization to notify the physician or provider, before a change in a fee payment described by Subsection (a) takes effect if the payment change results from a change in information described by Subsection (a), the source of which is a third party not controlled by the health maintenance organization, such as the Centers for Disease Control Vaccine Price List.

(c) A contract between a health maintenance organization and a physician or provider must require the health maintenance

organization to provide notice of a change of a source of information described by Subsection (a) used to calculate the fee payment for an immunization, vaccine, or serum not later than the 90th day before the date the change of source takes effect.

SECTION 6. Section 1301.102(c), Insurance Code, is amended to read as follows:

(c) An insurer shall accept as proof of timely filing of a claim for medical care or health care services:

(1) a claim filed in compliance with Subsection (b); or

(2) information from any [~~another~~] insurer authorized or eligible to engage in the business of insurance in this state or health maintenance organization showing that the physician or health care provider submitted the claim for medical care or health care services to the insurer or health maintenance organization in compliance with Subsection (b).

SECTION 7. Sections 1301.137(a), (b), (d), and (e), Insurance Code, are amended to read as follows:

(a) Except as provided by this section, if a clean claim submitted to an insurer is payable and the insurer does not determine under Subchapter C that the claim is payable and pay the claim on or before the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay the preferred provider making the claim the contracted rate owed on the claim plus a penalty in the amount of the lesser of:

(1) 50 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) $5,000 [~~$100,000~~].

(b) If the claim is paid on or after the 46th day and before the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty in the amount of the lesser of:

(1) 100 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) $10,000 [~~$200,000~~].

(d) Except as provided by this section, an insurer that determines under Subchapter C that a claim is payable, pays only a portion of the amount of the claim on or before the date the insurer is required to make a determination or adjudication of the claim, and pays the balance of the contracted rate owed for the claim after that date shall pay to the preferred provider, in addition to the contracted amount owed, a penalty on the amount not timely paid in the amount of the lesser of:

(1) 50 percent of the underpaid amount; or

(2) $5,000 [~~$100,000~~].

(e) If the balance of the claim is paid on or after the 46th day and before the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty on the balance of the claim in the amount of the lesser of:

(1) 100 percent of the underpaid amount; or

(2) $10,000 [~~$200,000~~].

SECTION 8. Subchapter C-1, Chapter 1301, Insurance Code, is amended by adding Section 1301.1371 to read as follows:

Sec. 1301.1371. PAYMENT APPEAL DEADLINE. If a contract between an insurer and a preferred provider directly or indirectly requires that a contractual dispute regarding a post-service payment denial or payment dispute be appealed, the insurer may not impose a deadline for filing the appeal that is less than 180 days after the earlier of:

(1) the date of the initial payment or denial notice; or

(2) the latest date for making a payment or notification with respect to the claim under Subchapter C.

SECTION 9. Subchapter C-1, Chapter 1301, Insurance Code, is amended by adding Section 1301.140 to read as follows:

Sec. 1301.140. PAYMENT FOR IMMUNIZATIONS, VACCINES, AND SERUMS. (a) A contract between an insurer and a preferred provider must disclose the source of the information used to calculate a fee payment for an immunization, vaccine, or serum. The information must be made readily accessible to the preferred provider, and the contract must include an explanation of how the preferred provider may access the information.

(b) Notwithstanding Section 1301.136(a)(3), an insurer is not required to notify a preferred provider, and a contract between an insurer and a preferred provider may not directly or indirectly require the insurer to notify the preferred provider, before a change in a fee payment described by Subsection (a) takes effect if the payment change results from a change in information described by Subsection (a), the source of which is a third party not controlled by the insurer, such as the Centers for Disease Control

Vaccine Price List.

(c) A contract between an insurer and a preferred provider must require the insurer to provide notice of a change of a source of information described by Subsection (a) used to calculate the fee payment for an immunization, vaccine, or serum not later than the 90th day before the date the change takes effect.

SECTION 10. Sections 843.342(m) and 1301.137(l), Insurance Code, are repealed.

SECTION 11. It is the intent of the legislature that Section 16.013, Civil Practice and Remedies Code, as added by this Act, applies only to a personal cause of action and does not limit or modify the jurisdiction and authority of the commissioner of insurance to enforce the prompt payment requirements of Chapters 843 and 1301, Insurance Code.

SECTION 12. (a) Section 16.013, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action arising from a claim submitted on or after the effective date of this Act. A cause of action arising from a claim submitted before the effective date of this Act is governed by the law applicable to the claim immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Except as provided by Subsection (c) of this section, Sections 843.337, 843.342, 1301.102, and 1301.137, Insurance Code, as amended by this Act, apply only to a claim submitted on or after the effective date of this Act. A claim submitted before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is

continued in effect for that purpose.

(c) With respect to a claim submitted under a contract with a health maintenance organization or insurer, Sections 843.337, 843.342, 1301.102, and 1301.137, Insurance Code, as amended by this Act, apply only to a claim submitted under a contract entered into or renewed on or after the effective date of this Act. A claim submitted under a contract entered into or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) Sections 843.3421, 843.355, 1301.1371, and 1301.140, Insurance Code, as added by this Act, apply only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2015.