BILL ANALYSIS

BACKGROUND AND PURPOSE

Interested parties contend that the practice under which a health insurer or health maintenance organization extrapolates findings of a claims audit across the entirety of a provider's recent claims history and then seeks recoupment of overpayments based on that extrapolation places an unjust burden on the provider. C.S.H.B. 1649 seeks to prevent abusive claims audit behavior by prohibiting certain insurers and health maintenance organizations from using extrapolation to complete an audit of a preferred provider or of a participating physician or provider, respectively.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1649 amends the Insurance Code to prohibit a health maintenance organization and an insurer authorized to issue, deliver, or issue for delivery health insurance policies from using extrapolation to complete an audit of a physician or provider participating in the health maintenance organization or of a preferred provider of the insurer, respectively. The bill requires any additional payment due such a physician or provider or any refund due the health maintenance organization or insurer, as applicable, to be based on the actual overpayment or underpayment and prohibits any such additional payment or refund from being based on an extrapolation. The bill makes its provisions prohibiting the use of extrapolation by a health maintenance organization inapplicable to coverage under the child health plan program, a health benefits plan for certain children, or a Medicaid program.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1649 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Section 843.010, Insurance Code, is amended to read as follows:

Sec. 843.010. APPLICABILITY OF CERTAIN PROVISIONS TO GOVERNMENTAL HEALTH BENEFIT PLANS. Sections 843.306(f), 843.322, and 843.363(a)(4) do not apply to coverage under:

(1) the child health plan program under Chapter 62, Health and Safety Code, or the health benefits plan for children under Chapter 63, Health and Safety Code; or

(2) a Medicaid program, including a Medicaid managed care program operated under Chapter 533, Government Code.

SECTION 1. Section 843.340, Insurance Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) A health maintenance organization may not use extrapolation to complete an audit of a participating physician or provider. Any additional payment due a participating physician or provider or any refund due the health maintenance organization must be based on the actual overpayment or underpayment and may not be based on an extrapolation.

(g) In this section, "extrapolation" means a mathematical process or technique used by a health maintenance organization in the audit of a participating physician or provider to estimate audit results or findings for a larger batch or group of claims not reviewed by the health maintenance organization.

SECTION 2. Subchapter I, Chapter 843, Insurance Code, is amended by adding Section 843.322 to read as follows:

Sec. 843.322. USE OF EXTRAPOLATION PROHIBITED. (a) In this section, "extrapolation" means a mathematical process or technique used by a health maintenance organization in the audit of a participating physician or provider to estimate audit results or findings for a larger batch or group of claims not reviewed by the health maintenance organization.

(b) A health maintenance organization may not use extrapolation to complete an audit of a participating physician or provider. Any additional payment due a participating physician or provider or any refund due the health maintenance organization must be based on the actual overpayment or underpayment and may not be based on an extrapolation.

SECTION 2. Section 1301.105, Insurance Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) An insurer may not use extrapolation to complete an audit of a preferred provider. Any additional payment due a preferred provider or any refund due the insurer must be based on the actual overpayment or underpayment and may not be based on an extrapolation.

(f) In this section, "extrapolation" means a mathematical process or technique used by an insurer in the audit of a preferred

SECTION 3. Subchapter B, Chapter 1301, Insurance Code, is amended by adding Section 1301.0642 to read as follows:

Sec. 1301.0642. USE OF EXTRAPOLATION PROHIBITED. (a) In this section, "extrapolation" means a mathematical process or technique used by an insurer in the audit of a preferred provider to estimate audit results or findings for a larger batch or group of claims not reviewed by the insurer.

(b) An insurer may not use extrapolation to complete an audit of a preferred provider.

provider to estimate audit results or findings for a larger batch or group of claims not reviewed by the insurer.

Any additional payment due a preferred provider or any refund due the insurer must be based on the actual overpayment or underpayment and may not be based on an extrapolation.

SECTION 3. The change in law made by this Act applies only to the audit of a physician or provider under a contract with an insurer or health maintenance organization entered into or renewed on or after the effective date of this Act.

SECTION 4. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 5. Same as introduced version.