

By: Raymond

H.B. No. 2969

Substitute the following for H.B. No. 2969:

By: Keough

C.S.H.B. No. 2969

A BILL TO BE ENTITLED

1

AN ACT

2 relating to fraud, waste, and abuse in Medicaid and other health and
3 human services programs.

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

5 SECTION 1. Sections 531.102(j) and (k), Government Code,
6 are amended to read as follows:

7 (j) The office shall prepare a final report on each audit,
8 inspection, or investigation conducted under this section. The
9 final report must include:

10 (1) a summary of the activities performed by the
11 office in conducting the audit, inspection, or investigation;

12 (2) a statement regarding whether the audit,
13 inspection, or investigation resulted in a finding of any
14 wrongdoing; and

15 (3) a description of any findings of wrongdoing.

16 (k) A final report on an audit, inspection, or investigation
17 is subject to required disclosure under Chapter 552. All
18 information and materials compiled during the audit, inspection, or
19 investigation remain confidential and not subject to required
20 disclosure in accordance with Section 531.1021(g). A confidential
21 draft report on an audit, inspection, or investigation that
22 concerns the death of a child may be shared with the Department of
23 Family and Protective Services. A draft report that is shared with
24 the Department of Family and Protective Services remains

1 confidential and is not subject to disclosure under Chapter 552.

2 SECTION 2. Section 531.1021(g), Government Code, is amended
3 to read as follows:

4 (g) All information and materials subpoenaed or compiled by
5 the office in connection with an audit, inspection, or
6 investigation or by the office of the attorney general in
7 connection with a Medicaid fraud investigation are confidential and
8 not subject to disclosure under Chapter 552, and not subject to
9 disclosure, discovery, subpoena, or other means of legal compulsion
10 for their release to anyone other than the office or the attorney
11 general or their employees or agents involved in the audit,
12 inspection, or investigation conducted by the office or the
13 attorney general, except that this information may be disclosed to
14 the state auditor's office, law enforcement agencies, and other
15 entities as permitted by other law.

16 SECTION 3. The heading to Section 531.106, Government Code,
17 is amended to read as follows:

18 Sec. 531.106. LEARNING, ~~[OR]~~ NEURAL NETWORK, OR OTHER
19 TECHNOLOGY.

20 SECTION 4. Sections 531.106(a), (c), and (g), Government
21 Code, are amended to read as follows:

22 (a) The commission shall use learning, ~~[or]~~ neural network,
23 or other technology to identify and deter fraud in Medicaid
24 throughout this state.

25 (c) The data used for data ~~[neural network]~~ processing shall
26 be maintained as an independent subset for security purposes.

27 (g) Each month, the ~~[learning or neural network]~~ technology

1 implemented under this section must match vital statistics unit
2 death records with Medicaid claims filed by a provider. If the
3 commission determines that a provider has filed a claim for
4 services provided to a person after the person's date of death, as
5 determined by the vital statistics unit death records, the
6 commission shall refer the case for investigation to the
7 commission's office of inspector general.

8 SECTION 5. Section 531.1061(b), Government Code, is amended
9 to read as follows:

10 (b) For each case of suspected fraud, abuse, or insufficient
11 quality of care identified by the [~~learning or neural network~~]
12 technology required under Section 531.106, the automated fraud
13 investigation tracking system must:

14 (1) receive electronically transferred records
15 relating to the identified case from the [~~learning or neural~~
16 ~~network~~] technology;

17 (2) record the details and monitor the status of an
18 investigation of the identified case, including maintaining a
19 record of the beginning and completion dates for each phase of the
20 case investigation;

21 (3) generate documents and reports related to the
22 status of the case investigation; and

23 (4) generate standard letters to a provider regarding
24 the status or outcome of an investigation.

25 SECTION 6. Section 531.1131, Government Code, is amended by
26 amending Subsections (a), (b), and (c) and adding Subsections
27 (c-1), (c-2), and (c-3) to read as follows:

1 (a) If a managed care organization [~~organization's special~~
2 ~~investigative unit under Section 531.113(a)(1)]~~ or an [~~the~~] entity
3 with which the managed care organization contracts under Section
4 531.113(a)(2) discovers fraud or abuse in Medicaid or the child
5 health plan program, the organization [~~unit~~] or entity shall:

6 (1) immediately submit written notice to [~~and~~
7 ~~contemporaneously notify~~] the commission's office of inspector
8 general and the office of the attorney general in the form and
9 manner prescribed by the office of inspector general and containing
10 a detailed description of the fraud or abuse and each payment made
11 to a provider as a result of the fraud or abuse;

12 (2) subject to Subsection (b), begin payment recovery
13 efforts; and

14 (3) ensure that any payment recovery efforts in which
15 the organization engages are in accordance with applicable rules
16 adopted by the executive commissioner.

17 (b) If the amount sought to be recovered under Subsection
18 (a)(2) exceeds \$100,000, the managed care organization
19 [~~organization's special investigative unit~~] or the contracted
20 entity described by Subsection (a) may not engage in payment
21 recovery efforts if, not later than the 10th business day after the
22 date the organization [~~unit~~] or entity notified the commission's
23 office of inspector general and the office of the attorney general
24 under Subsection (a)(1), the organization [~~unit~~] or entity receives
25 a notice from either office indicating that the organization [~~unit~~]
26 or entity is not authorized to proceed with recovery efforts.

27 (c) A managed care organization may retain one-half of any

1 money recovered under Subsection (a)(2) by the organization
2 [~~organization's special investigative unit~~] or the contracted
3 entity described by Subsection (a). The managed care organization
4 shall remit the remaining amount of money recovered under
5 Subsection (a)(2) to the commission's office of inspector general.

6 (c-1) If the commission's office of inspector general
7 notifies a managed care organization under Subsection (b), proceeds
8 with recovery efforts, and recovers all or part of the payments the
9 organization identified as required by Subsection (a)(1), the
10 organization is entitled to one-half of the amount recovered for
11 each payment the organization identified after any applicable
12 federal share is deducted. The managed care organization may not
13 receive more than one-half of the total amount of money recovered
14 after any applicable federal share is deducted.

15 (c-2) Notwithstanding any provision of this section, if the
16 commission's office of inspector general discovers fraud, waste, or
17 abuse in Medicaid or the child health plan program in the
18 performance of its duties, the office may recover payments made to a
19 provider as a result of the fraud, waste, or abuse as otherwise
20 provided by this subchapter.

21 (c-3) With respect to fraud or abuse alleged in any notice
22 received under Subsection (a), the commission's office of inspector
23 general shall coordinate with appropriate managed care
24 organizations to ensure that the office and an organization or an
25 entity with which an organization contracts under Section
26 531.113(a)(2) do not both simultaneously pursue recovery efforts
27 under this section for the same case of fraud, waste, or abuse.

1 SECTION 7. Section [531.1131](#), Government Code, as amended by
2 this Act, applies only to an amount of money recovered on or after
3 the effective date of this Act. An amount of money recovered before
4 the effective date of this Act is governed by the law in effect
5 immediately before that date, and that law is continued in effect
6 for that purpose.

7 SECTION 8. If before implementing any provision of this Act
8 a state agency determines that a waiver or authorization from a
9 federal agency is necessary for implementation of that provision,
10 the agency affected by the provision shall request the waiver or
11 authorization and may delay implementing that provision until the
12 waiver or authorization is granted.

13 SECTION 9. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section [39](#), Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2017.