

AN ACT

relating to auditing and verification of information under certain health and human services programs, including the collection of certain payments following an investigation.

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

SECTION 1. Section 321.013, Government Code, is amended by adding Subsection (m) to read as follows:

(m) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits of programs operated by health and human services agencies that:

(1) have not recently received audit coverage; and

(2) have expenditures of less than \$100 million per year.

SECTION 2. Section 531.024172, Government Code, is amended to read as follows:

Sec. 531.024172. ELECTRONIC VISIT VERIFICATION SYSTEM.

(a) Not later than March 31, 2018, the commission shall conduct a review of the electronic visit verification system in use under this section on August 31, 2017. Notwithstanding any other provision of this section, the commission is required to implement a change in law made to this section by S.B. 894, Acts of the 85th Legislature, Regular Session, 2017, only if the commission determines the implementation is appropriate based on the findings of the review. The commission may combine the review required by

1 this subsection with any similar review required to be conducted by
2 the commission.

3 (b) Subject to Subsection (g), [~~In this section, "acute~~
4 ~~nursing services" has the meaning assigned by Section 531.02417.~~

5 [~~(b) If it is cost-effective and feasible,~~] the commission
6 shall, in accordance with federal law, implement an electronic
7 visit verification system to electronically verify [~~and document,~~]
8 through a telephone, global positioning, or computer-based system
9 that personal care services, attendant care services, or other
10 services identified by the commission that are provided to
11 recipients under Medicaid, including personal care services or
12 attendant care services provided under the Texas Health Care
13 Transformation and Quality Improvement Program waiver issued under
14 Section 1115 of the federal Social Security Act (42 U.S.C. Section
15 1315) or any other Medicaid waiver program, are provided to
16 recipients in accordance with a prior authorization or plan of
17 care. The electronic visit verification system implemented under
18 this subsection must allow for verification of only the following[~~7~~
19 ~~basic]~~ information relating to the delivery of Medicaid [~~acute~~
20 ~~nursing]~~ services[~~7, including~~]:

21 (1) the type of service provided [~~the provider's~~
22 ~~name~~];

23 (2) the name of the recipient to whom the service is
24 provided [~~the recipient's name~~]; [~~and~~]

25 (3) the date and times [~~time~~] the provider began
26 [~~begins~~] and ended the [~~ends each~~] service delivery visit;

27 (4) the location, including the address, at which the

1 service was provided;

2 (5) the name of the individual who provided the
3 service; and

4 (6) other information the commission determines is
5 necessary to ensure the accurate adjudication of Medicaid claims.

6 (c) The commission shall inform each Medicaid recipient who
7 receives personal care services, attendant care services, or other
8 services identified by the commission that the health care provider
9 providing the services and the recipient are each required to
10 comply with the electronic visit verification system. A managed
11 care organization that contracts with the commission to provide
12 health care services to Medicaid recipients described by this
13 subsection shall also inform recipients enrolled in a managed care
14 plan offered by the organization of those requirements.

15 (d) In implementing the electronic visit verification
16 system:

17 (1) subject to Subsection (e), the executive
18 commissioner shall adopt compliance standards for health care
19 providers; and

20 (2) the commission shall ensure that:

21 (A) the information required to be reported by
22 health care providers is standardized across managed care
23 organizations that contract with the commission to provide health
24 care services to Medicaid recipients and across commission
25 programs;

26 (B) processes required by managed care
27 organizations to retrospectively correct data are standardized and

1 publicly accessible to health care providers; and

2 (C) standardized processes are established for
3 addressing the failure of a managed care organization to provide a
4 timely authorization for delivering services necessary to ensure
5 continuity of care.

6 (e) In establishing compliance standards for health care
7 providers under Subsection (d), the executive commissioner shall
8 consider:

9 (1) the administrative burdens placed on health care
10 providers required to comply with the standards; and

11 (2) the benefits of using emerging technologies for
12 ensuring compliance, including Internet-based, mobile
13 telephone-based, and global positioning-based technologies.

14 (f) A health care provider that provides personal care
15 services, attendant care services, or other services identified by
16 the commission to Medicaid recipients shall:

17 (1) use an electronic visit verification system to
18 document the provision of those services;

19 (2) comply with all documentation requirements
20 established by the commission;

21 (3) comply with applicable federal and state laws
22 regarding confidentiality of recipients' information;

23 (4) ensure that the commission or the managed care
24 organization with which a claim for reimbursement for a service is
25 filed may review electronic visit verification system
26 documentation related to the claim or obtain a copy of that
27 documentation at no charge to the commission or the organization;

1 and

2 (5) at any time, allow the commission or a managed care
3 organization with which a health care provider contracts to provide
4 health care services to recipients enrolled in the organization's
5 managed care plan to have direct, on-site access to the electronic
6 visit verification system in use by the health care provider.

7 (g) The commission may recognize a health care provider's
8 proprietary electronic visit verification system as complying with
9 this section and allow the health care provider to use that system
10 for a period determined by the commission if the commission
11 determines that the system:

12 (1) complies with all necessary data submission,
13 exchange, and reporting requirements established under this
14 section;

15 (2) meets all other standards and requirements
16 established under this section; and

17 (3) has been in use by the health care provider since
18 at least June 1, 2014.

19 (h) The commission shall create a stakeholder work group
20 comprised of representatives of affected health care providers,
21 managed care organizations, and Medicaid recipients and
22 periodically solicit from that work group input regarding the
23 ongoing operation of the electronic visit verification system under
24 this section.

25 (i) The executive commissioner may adopt rules necessary to
26 implement this section.

27 SECTION 3. Section [531.120](#), Government Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) The commission shall provide the notice required by
3 Subsection (a) to a provider that is a hospital not later than the
4 90th day before the date the overpayment or debt that is the subject
5 of the notice must be paid.

6 SECTION 4. Chapter 533, Government Code, is amended by
7 adding Subchapter B to read as follows:

8 SUBCHAPTER B. STRATEGY FOR MANAGING AUDIT RESOURCES

9 Sec. 533.051. DEFINITIONS. In this subchapter:

10 (1) "Accounts receivable tracking system" means the
11 system the commission uses to track experience rebates and other
12 payments collected from managed care organizations.

13 (2) "Agreed-upon procedures engagement" means an
14 evaluation of a managed care organization's financial statistical
15 reports or other data conducted by an independent auditing firm
16 engaged by the commission as agreed in the managed care
17 organization's contract with the commission.

18 (3) "Experience rebate" means the amount a managed
19 care organization is required to pay the state according to the
20 graduated rebate method described in the managed care
21 organization's contract with the commission.

22 (4) "External quality review organization" means an
23 organization that performs an external quality review of a managed
24 care organization in accordance with 42 C.F.R. Section 438.350.

25 Sec. 533.052. APPLICABILITY AND CONSTRUCTION OF
26 SUBCHAPTER. This subchapter does not apply to and may not be
27 construed as affecting the conduct of audits by the commission's

1 office of inspector general under the authority provided by
2 Subchapter C, Chapter 531, including an audit of a managed care
3 organization conducted by the office after coordinating the
4 office's audit and oversight activities with the commission as
5 required by Section 531.102(q), as added by Chapter 837 (S.B. 200),
6 Acts of the 84th Legislature, Regular Session, 2015.

7 Sec. 533.053. OVERALL STRATEGY FOR MANAGING AUDIT
8 RESOURCES. The commission shall develop and implement an overall
9 strategy for planning, managing, and coordinating audit resources
10 that the commission uses to verify the accuracy and reliability of
11 program and financial information reported by managed care
12 organizations.

13 Sec. 533.054. PERFORMANCE AUDIT SELECTION PROCESS AND
14 FOLLOW-UP. (a) To improve the commission's processes for
15 performance audits of managed care organizations, the commission
16 shall:

17 (1) document the process by which the commission
18 selects managed care organizations to audit;

19 (2) include previous audit coverage as a risk factor
20 in selecting managed care organizations to audit; and

21 (3) prioritize the highest risk managed care
22 organizations to audit.

23 (b) To verify that managed care organizations correct
24 negative performance audit findings, the commission shall:

25 (1) establish a process to:

26 (A) document how the commission follows up on
27 negative performance audit findings; and

1 (B) verify that managed care organizations
2 implement performance audit recommendations; and

3 (2) establish and implement policies and procedures
4 to:

5 (A) determine under what circumstances the
6 commission must issue a corrective action plan to a managed care
7 organization based on a performance audit; and

8 (B) follow up on the managed care organization's
9 implementation of the corrective action plan.

10 Sec. 533.055. AGREED-UPON PROCEDURES ENGAGEMENTS AND
11 CORRECTIVE ACTION PLANS. To enhance the commission's use of
12 agreed-upon procedures engagements to identify managed care
13 organizations' performance and compliance issues, the commission
14 shall:

15 (1) ensure that financial risks identified in
16 agreed-upon procedures engagements are adequately and consistently
17 addressed; and

18 (2) establish policies and procedures to determine
19 under what circumstances the commission must issue a corrective
20 action plan based on an agreed-upon procedures engagement.

21 Sec. 533.056. AUDITS OF PHARMACY BENEFIT MANAGERS. To
22 obtain greater assurance about the effectiveness of pharmacy
23 benefit managers' internal controls and compliance with state
24 requirements, the commission shall:

25 (1) periodically audit each pharmacy benefit manager
26 that contracts with a managed care organization; and

27 (2) develop, document, and implement a monitoring

1 process to ensure that managed care organizations correct and
2 resolve negative findings reported in performance audits or
3 agreed-upon procedures engagements of pharmacy benefit managers.

4 Sec. 533.057. COLLECTION OF COSTS FOR AUDIT-RELATED
5 SERVICES. The commission shall develop, document, and implement
6 billing processes in the Medicaid and CHIP services department of
7 the commission to ensure that managed care organizations reimburse
8 the commission for audit-related services as required by contract.

9 Sec. 533.058. COLLECTION ACTIVITIES RELATED TO PROFIT
10 SHARING. To strengthen the commission's process for collecting
11 shared profits from managed care organizations, the commission
12 shall develop, document, and implement monitoring processes in the
13 Medicaid and CHIP services department of the commission to ensure
14 that the commission:

15 (1) identifies experience rebates deposited in the
16 commission's suspense account and timely transfers those rebates to
17 the appropriate accounts; and

18 (2) timely follows up on and resolves disputes over
19 experience rebates claimed by managed care organizations.

20 Sec. 533.059. USE OF INFORMATION FROM EXTERNAL QUALITY
21 REVIEWS. (a) To enhance the commission's monitoring of managed
22 care organizations, the commission shall use the information
23 provided by the external quality review organization, including:

24 (1) detailed data from results of surveys of Medicaid
25 recipients and, if applicable, child health plan program enrollees,
26 caregivers of those recipients and enrollees, and Medicaid and, as
27 applicable, child health plan program providers; and

1 (2) the validation results of matching paid claims
2 data with medical records.

3 (b) The commission shall document how the commission uses
4 the information described by Subsection (a) to monitor managed care
5 organizations.

6 Sec. 533.060. SECURITY AND PROCESSING CONTROLS OVER
7 INFORMATION TECHNOLOGY SYSTEMS. The commission shall:

8 (1) strengthen user access controls for the
9 commission's accounts receivable tracking system and network
10 folders that the commission uses to manage the collection of
11 experience rebates;

12 (2) document daily reconciliations of deposits
13 recorded in the accounts receivable tracking system to the
14 transactions processed in:

15 (A) the commission's cost accounting system for
16 all health and human services agencies; and

17 (B) the uniform statewide accounting system; and

18 (3) develop, document, and implement a process to
19 ensure that the commission formally documents:

20 (A) all programming changes made to the accounts
21 receivable tracking system; and

22 (B) the authorization and testing of the changes
23 described by Paragraph (A).

24 SECTION 5. (a) As soon as practicable after March 31,
25 2018, and to the extent appropriate based on the review conducted by
26 the Health and Human Services Commission under Section
27 [531.024172\(a\)](#), Government Code, as amended by this Act, the

1 commission shall implement an electronic visit verification system
2 that complies with Section [531.024172](#), Government Code, as amended
3 by this Act.

4 (b) As soon as practicable after the effective date of this
5 Act, the executive commissioner of the Health and Human Services
6 Commission shall adopt the rules necessary to implement Subchapter
7 B, Chapter [533](#), Government Code, as added by this Act.

8 SECTION 6. If before implementing any provision of this Act
9 a state agency determines that a waiver or authorization from a
10 federal agency is necessary for implementation of that provision,
11 the agency affected by the provision shall request the waiver or
12 authorization and may delay implementing that provision until the
13 waiver or authorization is granted.

14 SECTION 7. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 894 passed the Senate on April 18, 2017, by the following vote: Yeas 31, Nays 0; May 25, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2017, House granted request of the Senate; May 28, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 894 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 142, Nays 0, one present not voting; May 26, 2017, House granted request of the Senate for appointment of Conference Committee; May 28, 2017, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor