

**House Bill 2379**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 531.102, Government Code, is amended by amending Subsection (a-3) and adding Subsection (a-7) to read as follows:

(a-3) The executive commissioner is responsible for performing all administrative support services functions necessary to operate the office in the same manner that the executive commissioner is responsible for providing administrative support services functions for the health and human services system, including functions of the office related to the following:

- (1) procurement processes;
- (2) contracting policies;
- (3) information technology services;
- (4) subject to Subsection (a-7), legal services;
- (5) budgeting; and
- (6) personnel and employment policies.

(a-7) For purposes of Subsection (a-3), "legal services" includes only legal services related to open records, procurement, contracting, human resources, privacy, litigation support by the attorney general, bankruptcy, and other legal services as detailed in the memorandum of understanding or

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SECTION 1. Section 531.102, Government Code, is amended by amending Subsections (a-3), (a-6), (j), and (k) and adding Subsections (a-7) and (a-8) to read as follows:

(a-3) The executive commissioner is responsible for performing all administrative support services functions necessary to operate the office in the same manner that the executive commissioner is responsible for providing administrative support services functions for the health and human services system, including functions of the office related to the following:

- (1) procurement processes;
- (2) contracting policies;
- (3) information technology services;
- (4) subject to Subsection (a-8), legal services;
- (5) budgeting; and
- (6) personnel and employment policies.

(a-6) The office shall conduct audits, inspections, and investigations independent of the executive commissioner and the commission but shall rely on the coordination required by Subsection (a-5) to ensure that the office has a thorough understanding of the health and human services system for purposes of knowledgeably and effectively performing the office's duties under this section and any other law.

(a-7) The chief counsel for the commission is the final authority for all legal interpretations related to statutes, rules, and commission policy on programs administered by the commission.

(a-8) For purposes of Subsection (a-3), "legal services" includes only legal services related to open records, procurement, contracting, human resources, privacy, litigation support by the attorney general, bankruptcy, and other legal services as detailed in the memorandum of understanding or

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other written agreement required under Section 531.00553, as added by Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015.

No equivalent provision.

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other written agreement required under Section 531.00553, as added by Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015.

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

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

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

(3) a description of any findings of wrongdoing.

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

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

(g) All information and materials subpoenaed or compiled by the office in connection with an audit, inspection, or investigation or by the office of the attorney general in connection with a Medicaid fraud investigation are confidential and not subject to disclosure under Chapter 552, and not subject to disclosure, discovery, subpoena, or other

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means of legal compulsion for their release to anyone other than the office or the attorney general or their employees or agents involved in the audit, inspection, or investigation conducted by the office or the attorney general, except that this information may be disclosed to the state auditor's office, law enforcement agencies, and other entities as permitted by other law.

No equivalent provision.

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

Sec. 531.106. LEARNING, ~~OR~~ NEURAL NETWORK, OR OTHER TECHNOLOGY.

No equivalent provision.

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

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

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

(g) Each month, the ~~[learning or neural network]~~ technology implemented under this section must match vital statistics unit death records with Medicaid claims filed by a provider. If the commission determines that a provider has filed a claim for services provided to a person after the person's date of death, as determined by the vital statistics unit death records, the commission shall refer the case for investigation to the commission's office of inspector general.

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

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

- (1) receive electronically transferred records relating to the identified case from the ~~[learning or neural network]~~ technology;
- (2) record the details and monitor the status of an investigation of the identified case, including maintaining a record of the beginning and completion dates for each phase of the case investigation;
- (3) generate documents and reports related to the status of the case investigation; and
- (4) generate standard letters to a provider regarding the status or outcome of an investigation.

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No equivalent provision.

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

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

- (1) immediately submit written notice to [and contemporaneously notify] the commission's office of inspector general and the office of the attorney general in the form and manner prescribed by the office of inspector general

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and containing a detailed description of the fraud or abuse and each payment made to a provider as a result of the fraud or abuse;

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

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

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

(c) A managed care organization may retain one-half of any money recovered under Subsection (a)(2) by the organization [~~organization's special investigative unit~~] or the contracted entity described by Subsection (a). The managed care organization shall remit the remaining amount of money recovered under Subsection (a)(2) to the commission's office of inspector general for deposit to the credit of the general revenue fund.

(c-1) If the commission's office of inspector general notifies a managed care organization under Subsection (b), proceeds with recovery efforts, and recovers all or part of the payments the organization identified as required by Subsection (a)(1), the organization is entitled to one-half of the amount

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recovered for each payment the organization identified after any applicable federal share is deducted. The organization may not receive more than one-half of the total amount of money recovered after any applicable federal share is deducted.

(c-2) Notwithstanding any provision of this section, if the commission's office of inspector general discovers fraud, waste, or abuse in Medicaid or the child health plan program in the performance of its duties, the office may recover payments made to a provider as a result of the fraud, waste, or abuse as otherwise provided by this subchapter. All payments recovered by the office under this subsection shall be deposited to the credit of the general revenue fund.

(c-3) The commission's office of inspector general shall coordinate with appropriate managed care organizations to ensure that the office and an organization or an entity with which an organization contracts under Section 531.113(a)(2) do not both begin payment recovery efforts under this section for the same case of fraud, waste, or abuse.

No equivalent provision.

SECTION 7. Section 531.1131, Government Code, as amended by this Act, applies only to an amount of money recovered on or after the effective date of this Act. An amount of money recovered before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 8. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that

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SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

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provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. Same as House version.

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