

BILL ANALYSIS

Senate Research Center
86R17329 KKR-F

C.S.S.B. 935
By: Hancock
Business & Commerce
3/25/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Brooke Army Medical Center (BAMC) in San Antonio is a federal military treatment facility (MTF) that is operated by the Department of Defense (DOD). BAMC is the only Level 1 trauma center in the United States in the DOD Military Health System, and is only one of two Level 1 trauma centers in the San Antonio region, an area of 2.5 million people. Despite being a military hospital, BAMC accepts civilian trauma patients. The arrangement has benefited South Texas and the U.S. military for years: BAMC provides a Level 1 trauma center in an area that needs it, and by accepting civilian trauma patients, BAMC medical personnel receive critical training that helps them provide necessary care on the battlefield and in MTFs around the world.

Due to BAMC's participation in the state regional trauma system, some civilians who receive care at BAMC as a result of a work-related injury or illness are covered by workers' compensation insurance. Workers' compensation is a state-regulated system that provides medical and income benefits to employees who are injured on the job. The basic premise underlying all workers' compensation systems is that injured employees receive statutorily defined benefits at no cost (i.e. no copayments or deductibles), and in return, employers receive protection from most lawsuits.

The workers' compensation system is regulated at the state level, and state law provides for statutory and regulatory requirements that impose specific billing and utilization review requirements on health care providers. The Texas Division of Workers' Compensation also sets medical fee schedules, which determine how much providers will be reimbursed by insurance carriers for medical care provided to injured employees. BAMC, as a federal entity, does not recognize state workers' compensation laws, and they require full reimbursement of all charges billed. However, some Texas workers' compensation insurance carriers have tried to apply state law to a federal entity in order to refuse payment of BAMC's charges. In cases where insurance carriers have refused to reimburse BAMC, the hospital then bills the patient for the balance owed. As a DOD facility, that billing is initiated as a federal debt collection, and federal debts cannot be forgiven. If BAMC is not paid after 90 days, the debt is turned over to the Treasury Department, and their collection efforts include the garnishment of tax refunds and social security benefits. Unpaid balances can also be subject to interest payments, administrative fees, and other penalties.

Data provided by DWC found that between 1/1/2015 and 7/31/2018, approximately 666 injured employees received health care at BAMC, resulting in 4,731 medical bills. A total of \$25.3 million was charged by BAMC to insurance carriers, who paid \$13.3 million (or 53 percent of what was owed to BAMC). This left a balance of approximately \$12 million to be collected from injured employees.

S.B. 935 remedies this situation from occurring in the future by providing a definition of "federal military treatment facility" and clarifying that medical care provided in these facilities is exempt from certain workers' compensation statutory requirements related to network participation, medical billing, and reimbursements. It would also set the reimbursement rates at these facilities as the same as provided by federal law. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 935 amends current law relating to reimbursement of federal military treatment facilities under the workers' compensation system.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 (Section 413.0112, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 413, Labor Code, by adding Section 413.0112, as follows:

Sec. 413.0112. REIMBURSEMENT OF FEDERAL MILITARY TREATMENT FACILITY. (a) Defines "federal military treatment facility."

(b) Requires the reimbursement rates for medical services provided to an injured employee by a federal military treatment facility to be the amount charged by the facility as determined under 32 C.F.R. Part 220.

(c) Provides that Chapter 1305 (Workers' Compensation Health Care Networks), Insurance Code, and the following sections of this code do not apply to the reimbursement of federal military treatment facility's charges for medical services provided to an injured employee:

(1) Sections 408.027 (a) (relating to requiring a health care provider to submit a claim to the insurance carrier by a certain date) and (f) (relating to requiring any payment made by an insurance carrier to be in accordance with certain guidelines);

(2) Section 408.0271 (Reimbursement by Health Care Provider);

(3) Section 408.0272 (Certain Exceptions For Untimely Submission of Claim);

(4) Section 408.028 (Pharmaceutical Services);

(5) Section 408.0281 (Reimbursement For Pharmaceutical Services; Administrative Violation);

(6) Section 413.011 (Reimbursement Policies and Guidelines; Treatment Guidelines and Protocols);

(7) Section 413.014 (Preauthorization Requirements; Concurrent Review and Certification of Health Care);

(8) Section 413.031 (Medical Dispute Resolution), as that section relates to medical fee disputes;

(9) Section 413.041 (Disclosure); and

(10) Section 504.053 (Election).

(d) Requires the commissioner of workers' compensation (commissioner) to adopt rules necessary to implement this section, including rules establishing requirements for processing medical bills for services provided to an injured employee by a federal military treatment facility, and a separate medical dispute resolution process to resolve disputes over charges billed directly to an injured employee by a federal military treatment facility.

SECTION 2. Requires the commissioner to adopt rules as regulated by Section 413.0112, Labor Code, as added by this Act, not later than December 1, 2019.

SECTION 3. Makes application of this Act prospective to January 1, 2020.

SECTION 4. Effective date: September 1, 2019.