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By:  Paddie H.B. No. 2333

A BILL TO BE ENTITLED

AN ACT

relating to the Texas ambulance response safety net program; imposing a mandatory payment; authorizing an administrative penalty.

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

SECTION 1.  Section 773.003, Health and Safety Code, is amended by adding Subdivision (5) to read as follows:

(5)  "Commission" means the Health and Human Services Commission.

SECTION 2.  Chapter 773, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TEXAS AMBULANCE RESPONSE SAFETY NET PROGRAM

Sec. 773.301.  PURPOSE. The purpose of this subchapter is to authorize the commission to establish and administer the Texas ambulance response safety net program as a self-funded ground transport emergency medical services provider participation program for ground transport emergency medical services providers in accordance with this subchapter.

Sec. 773.302.  DEFINITIONS. In this subchapter:

(1)  "Average commercial rate" means the average amount payable by commercial payors for the same services. The rate is calculated by:

(A)  aligning the paid Medicaid claims with the Medicare fees for each Healthcare Common Procedure Coding System code or Current Procedural Terminology code for a ground transport emergency medical services provider;

(B)  calculating the Medicare payment for the claims described in Paragraph (A);

(C)  calculating a commercial-to-Medicare conversion factor for each ground transport emergency medical services provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims; and

(D)  recalculating at least once every three years the commercial-to-Medicare ratio for ground transport emergency medical services providers.

(2)  "Net patient revenue" means a ground transport emergency medical services provider's estimated net realizable revenue from patients, third-party payors, and other entities for ground transport emergency medical services rendered, including estimated retroactive adjustments required by reimbursement agreements with third-party payors. The term does not include:

(A)  the amounts the provider reduces for payors who have a fee schedule established by federal or state statute or a contractual agreement;

(B)  Medicaid payments received by the provider, including any payments for individuals who are dually eligible for Medicaid and Medicare;

(C)  amounts the provider reduces to zero as an uncollectible payment from any payor that are not contractual allowances, provided that the provider attempted to collect the payment; or

(D)  amounts related to ground transport emergency medical services that are waived or forgiven by a paying entity due to the financial hardship of the patient, provided that the waiver or forgiveness is implemented in accordance with a written policy of the entity that is consistent with national standards adopted by the Healthcare Financial Management Association or a similar organization.

Sec. 773.303.  APPLICABILITY. (a) This subchapter applies only to a ground transport emergency medical services provider that is:

(1)  licensed as an emergency medical services provider under this chapter;

(2)  a private, nonfederal provider of ground transport emergency medical services; and

(3)  a participant in the state Medicaid program.

(b)  This subchapter does not apply to an entity that:

(1)  provides only nonemergency ground transport ambulance services; or

(2)  is required to hold a license under Section 773.045(b).

Sec. 773.304.  MANDATORY PAYMENTS BASED ON NET PATIENT REVENUE. (a) Except as otherwise provided by this subchapter, the commission shall require an annual mandatory payment to be assessed on each ground transport emergency medical services provider's net patient revenue related to the provision of ground transport emergency medical services. The mandatory payment is to be collected quarterly. The commission shall update the amount of the mandatory payment at least annually.

(b)  The commission shall uniformly and consistently impose the mandatory payment on each ground transport emergency medical services provider and use the same formula for each provider in calculating the mandatory payment.

(c)  The total amount of all mandatory payments for the state fiscal year in which the mandatory payments are imposed may not exceed:

(1)  the state portion, excluding any federal financial participation, of the cost of reimbursement enhancements provided in this subchapter that are directly attributable to reimbursements to ground transport emergency medical services providers; or

(2)  an amount equal to six percent of the net operating revenue of all ground transport emergency medical services providers for the provision of emergency ground transport ambulance services, or a greater amount as permitted by federal law, provided that the maximum mandatory payment for a provider in any year may not exceed the provider's net patient revenue, as reported by the provider, subject to Section 773.306(b).

(d)  Subject to the maximum amount prescribed by Subsection (c), the commission shall set the mandatory payment in an amount that in the aggregate generates sufficient revenue to cover the administrative expenses of the commission for activities under this subchapter.

(e)  Not later than the 30th day before the end of each quarter, the commission shall issue to each ground transport emergency medical services provider a notice of the amount of the mandatory payment required to be paid by the provider in the next quarter.

(f)  A ground transport emergency medical services provider may not add a mandatory payment required under this subchapter as a surcharge to a patient or a third-party payor.

(g)  A ground transport emergency medical services provider shall make mandatory payments only in the manner provided by this subchapter.

Sec. 773.305.  ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. (a) Subject to Subsection (b), the commission shall collect a mandatory payment required under this subchapter.

(b)  The commission may contract for the assessment and collection of mandatory payments under this subchapter.

Sec. 773.306.  REPORT; INSPECTION OF RECORDS. (a) The commission shall require a ground transport emergency medical services provider to submit a report at least annually, but not more than quarterly, that includes information necessary to assist the commission in making a determination on mandatory payments under this subchapter.

(b)  The executive commissioner may audit or inspect the records of a ground transport emergency medical services provider to the extent necessary to ensure the accuracy of any data submitted to the commission under this subchapter.

Sec. 773.307.  FAILURE TO SUBMIT TIMELY OR ACCURATE REPORT OR PAYMENT; AUDIT; ADMINISTRATIVE PENALTY. (a) The commission may assess a reasonable penalty against a ground transport emergency medical services provider, not to exceed 15 percent of the quarterly portion of the provider's mandatory payment, for failure to timely submit the quarterly portion of a mandatory payment or a report required under this subchapter.

(b)  If a ground transport emergency medical services provider submits an inaccurate report required under this subchapter, the commission may conduct an audit of the provider's records and may require the provider to pay the cost of any audit expenses and related hearings.

(c)  A penalty assessed under this section is in addition to any other penalties and remedies applicable under state or federal law.

(d)  If a ground transport emergency medical services provider refuses to submit a quarterly portion of a mandatory payment, the commission may suspend all Medicaid payments to the provider until:

(1)  the provider submits the quarterly portion of the mandatory payment and any associated penalties; or

(2)  the provider and the commission reach a negotiated settlement.

Sec. 773.308.  TEXAS AMBULANCE RESPONSE SAFETY NET TRUST FUND. (a) The Texas ambulance response safety net trust fund is established as a trust fund to be held by the comptroller outside the state treasury and administered by the commission as trustee.

(b)  The trust fund consists of:

(1)  all revenue from the mandatory payments required by this subchapter, including any administrative penalties and any interest attributable to delinquent payments; and

(2)  the earnings of the fund.

(c)  Money deposited to the trust fund may be used only to:

(1)  provide reimbursements for ground transport emergency medical services delivered to Medicaid recipients based on the provider's average commercial rate, including reimbursement enhancements to the statewide dollar amount rate used to reimburse ground transport emergency medical services providers;

(2)  pay the administrative expenses of the commission solely for activities under this subchapter; and

(3)  refund a portion of a mandatory payment collected in error from a provider.

(d)  All revenue from the mandatory payments required by this subchapter must be deposited in the trust fund.

(e)  Money in the trust fund may not be used to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

Sec. 773.309.  INVALIDITY; FEDERAL FUNDS. If any provision of or procedure under this subchapter is held invalid by a final court order that is not subject to appeal, or if the commission determines that the imposition of the mandatory payment and the expenditure of amounts collected as prescribed by this subchapter will not entitle the state to receive federal matching funds under the Medicaid program or will be inconsistent with the objectives described by Section 537.002(b)(7), Government Code, the commission shall:

(1)  stop collection of the payment; and

(2)  not later than the 30th day after the date collection is stopped, return to each ground transport emergency medical services provider, in proportion to the total amount paid by each provider compared to the total amount paid by all providers, any unspent money deposited to the credit of the trust fund.

Sec. 773.310.  RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

SECTION 3.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall:

(1)  adopt the rules necessary to implement Subchapter J, Chapter 773, Health and Safety Code, as added by this Act; and

(2)  establish the amount of the initial mandatory payment imposed under Subchapter J, Chapter 773, Health and Safety Code, as added by this Act, based on available net patient revenue information.

SECTION 4.  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 provision, the agency affected by the provision shall request the waiver or authorization and shall delay implementing that provision until the waiver or authorization is granted. The agency shall begin implementing the provision on the date the waiver or authorization is granted.

SECTION 5.  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, 2019.