

By: Paddie

H.B. No. 2333

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

12 SUBCHAPTER J. TEXAS AMBULANCE RESPONSE SAFETY NET PROGRAM

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

19 Sec. 773.302. DEFINITIONS. In this subchapter:

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

23 (A) aligning the paid Medicaid claims with the  
24 Medicare fees for each Healthcare Common Procedure Coding System

1 code or Current Procedural Terminology code for a ground transport  
2 emergency medical services provider;

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

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

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

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

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

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

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

1 payment; or

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

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

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

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

16 (3) a participant in the state Medicaid program.

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

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

20 (2) is required to hold a license under Section  
21 773.045(b).

22 Sec. 773.304. MANDATORY PAYMENTS BASED ON NET PATIENT  
23 REVENUE. (a) Except as otherwise provided by this subchapter, the  
24 commission shall require an annual mandatory payment to be assessed  
25 on each ground transport emergency medical services provider's net  
26 patient revenue related to the provision of ground transport  
27 emergency medical services. The mandatory payment is to be

1 collected quarterly. The commission shall update the amount of the  
2 mandatory payment at least annually.

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

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

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

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

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

26 (e) Not later than the 30th day before the end of each  
27 quarter, the commission shall issue to each ground transport

1 emergency medical services provider a notice of the amount of the  
2 mandatory payment required to be paid by the provider in the next  
3 quarter.

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

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

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

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

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

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

25 Sec. 773.307. FAILURE TO SUBMIT TIMELY OR ACCURATE REPORT  
26 OR PAYMENT; AUDIT; ADMINISTRATIVE PENALTY. (a) The commission may  
27 assess a reasonable penalty against a ground transport emergency

1 medical services provider, not to exceed 15 percent of the  
2 quarterly portion of the provider's mandatory payment, for failure  
3 to timely submit the quarterly portion of a mandatory payment or a  
4 report required under this subchapter.

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

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

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

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

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

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

25 (b) The trust fund consists of:

26 (1) all revenue from the mandatory payments required  
27 by this subchapter, including any administrative penalties and any

1 interest attributable to delinquent payments; and

2 (2) the earnings of the fund.

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

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

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

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

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

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

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

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

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

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

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

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

18           SECTION 4. If before implementing any provision of this Act  
19 a state agency determines that a waiver or authorization from a  
20 federal agency is necessary for implementation of that provision,  
21 the agency affected by the provision shall request the waiver or  
22 authorization and shall delay implementing that provision until the  
23 waiver or authorization is granted. The agency shall begin  
24 implementing the provision on the date the waiver or authorization  
25 is granted.

26           SECTION 5. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as



H.B. No. 2333

1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2019.