

By: Davis of Harris

H.B. No. 3478

A BILL TO BE ENTITLED

AN ACT

relating to an independent medical review of certain determinations by the Health and Human Services Commission or a Medicaid managed care organization.

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

SECTION 1. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00715 to read as follows:

Sec. 533.00715. INDEPENDENT APPEALS PROCEDURE. (a) In this section, "third-party arbiter" means a third-party medical review organization that provides objective, unbiased medical necessity determinations conducted by clinical staff with education and practice in the same or similar practice area as the procedure for which an independent determination of medical necessity is sought.

(b) The commission shall contract with at least three independent, third-party arbiters to resolve recipient appeals of any commission or a Medicaid managed care organization adverse benefit determination or reduction in or denial of health care services on the basis of medical necessity.

(c) The commission shall establish a common procedure for appeals. The procedure must provide that a health care service ordered by a health care provider is presumed medically necessary and the commission or Medicaid managed care organization bears the burden of proof to show the health care service is not medically

1 necessary. The commission shall also establish a procedure for  
2 expedited appeals that allows a third-party arbiter to:

3 (1) identify an appeal that requires an expedited  
4 resolution; and

5 (2) resolve the appeal within a specified period.

6 (d) Subject to Subsection (e), the commission shall ensure  
7 an appeal is randomly assigned to a third-party arbiter.

8 (e) The commission shall ensure each third-party arbiter  
9 has the necessary medical expertise to resolve an appeal.

10 (f) A third-party arbiter shall establish and maintain an  
11 Internet portal through which a recipient may track the status and  
12 final disposition of an appeal.

13 (g) A third-party arbiter shall educate recipients and  
14 employees of Medicaid managed care organizations regarding appeals  
15 processes, options, and proper and improper denials of health care  
16 services on the basis of medical necessity.

17 (h) A third-party arbiter shall review aggregate denial  
18 data categorized by Medicaid managed care plan to identify trends  
19 and determine whether a Medicaid managed care organization is  
20 disproportionately denying prior authorization requests from a  
21 single provider or set of providers.

22 SECTION 2. As soon as practicable after the effective date  
23 of this Act, the executive commissioner of the Health and Human  
24 Services Commission shall adopt the rules necessary to implement  
25 this Act.

26 SECTION 3. If before implementing any provision of this Act  
27 a state agency determines that a waiver or authorization from a

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1 federal agency is necessary for implementation of that provision,  
2 the agency affected by the provision shall request the waiver or  
3 authorization and may delay implementing that provision until the  
4 waiver or authorization is granted.

5 SECTION 4. This Act takes effect September 1, 2019.