

By: Watson, Hinojosa, West

S.B. No. 1140

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, using money appropriated for the purpose, shall contract with at least three independent, third-party arbiters to resolve an appeal of:

(1) a Medicaid managed care organization adverse benefit determination made on the basis of medical necessity;

(2) a denial by the commission of eligibility for a Medicaid program on the basis of the recipient's or applicant's medical and functional needs; and

(3) an action, as defined by 42 C.F.R. Section 431.201, by the commission based on the recipient's medical and

1 functional needs.

2 (c) An appeal described by Subsection (b)(1) occurs after  
3 the Medicaid managed care organization internal appeal decision is  
4 issued and before the Medicaid fair hearing, and the appeal is  
5 granted when a recipient contests the internal appeal decision. An  
6 appeal described by Subsection (b)(2) or (3) occurs after the  
7 commission's denial is issued or action is taken and before the  
8 Medicaid fair hearing.

9 (d) The commission shall establish a common procedure for  
10 appeals. The procedure must provide that a health care service  
11 ordered by a health care provider is presumed medically necessary  
12 and the commission or Medicaid managed care organization bears the  
13 burden of proof to show the health care service is not medically  
14 necessary. The third-party arbiter shall conduct the appeal within  
15 a period specified by the commission. The commission shall also  
16 establish a procedure for expedited appeals that allows a  
17 third-party arbiter to:

18 (1) identify an appeal that requires an expedited  
19 resolution; and

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

21 (e) Subject to Subsection (f), the commission shall ensure  
22 an appeal is randomly assigned to a third-party arbiter.

23 (f) The commission shall ensure each third-party arbiter  
24 has the necessary medical expertise to resolve an appeal.

25 (g) A third-party arbiter shall establish and maintain an  
26 Internet portal through which a recipient may track the status and  
27 final disposition of an appeal.

1       (h) A third-party arbiter shall educate recipients  
2 regarding:

- 3           (1) appeals processes and options;  
4           (2) proper and improper denials of health care  
5 services on the basis of medical necessity; and  
6           (3) information available through the commission's  
7 office of the ombudsman.

8       (i) A third-party arbiter may share with Medicaid managed  
9 care organizations information regarding:

- 10           (1) appeals processes; and  
11           (2) the types of documents the arbiter may require  
12 from the organization to resolve appeals.

13       (j) A third-party arbiter shall notify the commission of the  
14 final disposition of each appeal. The commission shall review  
15 aggregate denial data categorized by Medicaid managed care plan to  
16 identify trends and determine whether a Medicaid managed care  
17 organization is disproportionately denying prior authorization  
18 requests from a single provider or set of providers.

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

23       SECTION 3. If before implementing any provision of this Act  
24 a state agency determines that a waiver or authorization from a  
25 federal agency is necessary for implementation of that provision,  
26 the agency affected by the provision shall request the waiver or  
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

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