

By: Watson

S.B. No. 1140

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an independent medical review of certain determinations
3 by the Health and Human Services Commission or a Medicaid managed
4 care organization.

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

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

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

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

20 (c) The commission shall establish a common procedure for
21 appeals. The procedure must provide that a health care service
22 ordered by a health care provider is presumed medically necessary
23 and the commission or Medicaid managed care organization bears the
24 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

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.