

1-1 By: Watson S.B. No. 1140
1-2 (In the Senate - Filed February 26, 2019; March 7, 2019,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; April 11, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 11, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1140 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to an independent medical review of certain determinations
1-22 by the Health and Human Services Commission or a Medicaid managed
1-23 care organization.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter A, Chapter 533, Government Code, is
1-26 amended by adding Section 533.00715 to read as follows:

1-27 Sec. 533.00715. INDEPENDENT APPEALS PROCEDURE. (a) In
1-28 this section, "third-party arbiter" means a third-party medical
1-29 review organization that provides objective, unbiased medical
1-30 necessity determinations conducted by clinical staff with
1-31 education and practice in the same or similar practice area as the
1-32 procedure for which an independent determination of medical
1-33 necessity is sought.

1-34 (b) The commission, using money appropriated for the
1-35 purpose, shall contract with at least three independent,
1-36 third-party arbiters to resolve recipient appeals of any commission
1-37 or a Medicaid managed care organization adverse benefit
1-38 determination or reduction in or denial of health care services on
1-39 the basis of medical necessity.

1-40 (c) The commission shall establish a common procedure for
1-41 appeals. The procedure must provide that a health care service
1-42 ordered by a health care provider is presumed medically necessary
1-43 and the commission or Medicaid managed care organization bears the
1-44 burden of proof to show the health care service is not medically
1-45 necessary. The commission shall also establish a procedure for
1-46 expedited appeals that allows a third-party arbiter to:

1-47 (1) identify an appeal that requires an expedited
1-48 resolution; and

1-49 (2) resolve the appeal within a specified period.

1-50 (d) Subject to Subsection (e), the commission shall ensure
1-51 an appeal is randomly assigned to a third-party arbiter.

1-52 (e) The commission shall ensure each third-party arbiter
1-53 has the necessary medical expertise to resolve an appeal.

1-54 (f) A third-party arbiter shall establish and maintain an
1-55 Internet portal through which a recipient may track the status and
1-56 final disposition of an appeal.

1-57 (g) A third-party arbiter shall educate recipients
1-58 regarding:

1-59 (1) appeals processes and options;

1-60 (2) proper and improper denials of health care

2-1 services on the basis of medical necessity; and
2-2 (3) information available through the commission's
2-3 office of the ombudsman.

2-4 (h) A third-party arbiter may share with Medicaid managed
2-5 care organizations information regarding:

2-6 (1) appeals processes; and

2-7 (2) the types of documents the arbiter may require
2-8 from the organization to resolve appeals.

2-9 (i) A third-party arbiter shall notify the commission of the
2-10 final disposition of each appeal. The commission shall review
2-11 aggregate denial data categorized by Medicaid managed care plan to
2-12 identify trends and determine whether a Medicaid managed care
2-13 organization is disproportionately denying prior authorization
2-14 requests from a single provider or set of providers.

2-15 SECTION 2. As soon as practicable after the effective date
2-16 of this Act, the executive commissioner of the Health and Human
2-17 Services Commission shall adopt the rules necessary to implement
2-18 this Act.

2-19 SECTION 3. If before implementing any provision of this Act
2-20 a state agency determines that a waiver or authorization from a
2-21 federal agency is necessary for implementation of that provision,
2-22 the agency affected by the provision shall request the waiver or
2-23 authorization and may delay implementing that provision until the
2-24 waiver or authorization is granted.

2-25 SECTION 4. This Act takes effect September 1, 2019.

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