

By: Buckingham, et al.
(Klick)

S.B. No. 1991

A BILL TO BE ENTITLED

AN ACT

relating to claims and overpayment recoupment processes imposed on health care providers under Medicaid.

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

SECTION 1. Section 531.024172, Government Code, is amended by amending Subsection (g) and adding Subsections (g-1) and (g-2) to read as follows:

(g) The commission may recognize a health care provider's proprietary electronic visit verification system, whether purchased or developed by the provider, as complying with this section and allow the health care provider to use that system for a period determined by the commission if the commission determines that the system:

(1) complies with all necessary data submission, exchange, and reporting requirements established under this section; and

(2) meets all other standards and requirements established under this section[~~, and~~

~~[(3) has been in use by the health care provider since at least June 1, 2014].~~

(g-1) If feasible, the executive commissioner shall ensure a health care provider that uses the provider's proprietary electronic visit verification system recognized under Subsection (g) is reimbursed for the use of that system.

1 (g-2) For purposes of facilitating the use of proprietary
2 electronic visit verification systems by health care providers
3 under Subsection (g) and in consultation with industry stakeholders
4 and the work group established under Subsection (h), the commission
5 or the executive commissioner, as appropriate, shall:

6 (1) develop an open model system that mitigates the
7 administrative burdens identified by providers required to use
8 electronic visit verification;

9 (2) allow providers to use emerging technologies,
10 including Internet-based, mobile telephone-based, and global
11 positioning-based technologies, in the providers' proprietary
12 electronic visit verification systems; and

13 (3) adopt rules governing data submission and provider
14 reimbursement.

15 SECTION 2. Section 531.1131, Government Code, is amended by
16 adding Subsection (f) to read as follows:

17 (f) In adopting rules establishing due process procedures
18 under Subsection (e), the executive commissioner shall require that
19 a managed care organization or an entity with which the managed care
20 organization contracts under Section 531.113(a)(2) that engages in
21 payment recovery efforts in accordance with this section and
22 Section 531.1135 provide:

23 (1) written notice to a provider required to use
24 electronic visit verification of the organization's intent to
25 recoup overpayments in accordance with Section 531.1135; and

26 (2) a provider described by Subdivision (1) at least
27 60 days to cure any defect in a claim before the organization may

1 begin any efforts to collect overpayments.

2 SECTION 3. Subchapter C, Chapter 531, Government Code, is
3 amended by adding Section 531.1135 to read as follows:

4 Sec. 531.1135. MANAGED CARE ORGANIZATIONS: PROCESS TO
5 RECOUP CERTAIN OVERPAYMENTS. (a) The executive commissioner
6 shall adopt rules that standardize the process by which a managed
7 care organization collects alleged overpayments that are made to a
8 health care provider and discovered through an audit or
9 investigation conducted by the organization secondary to missing
10 electronic visit verification information. In adopting rules under
11 this section, the executive commissioner shall require that the
12 managed care organization:

13 (1) provide written notice of the organization's
14 intent to recoup overpayments not later than the 30th day after the
15 date an audit is complete; and

16 (2) limit the duration of audits to 24 months.

17 (b) The executive commissioner shall require that the
18 notice required under this section inform the provider:

19 (1) of the specific claims and electronic visit
20 verification transactions that are the basis of the overpayment;

21 (2) of the process the provider should use to
22 communicate with the managed care organization to provide
23 information about the electronic visit verification transactions;

24 (3) of the provider's option to seek an informal
25 resolution of the alleged overpayment;

26 (4) of the process to appeal the determination that an
27 overpayment was made; and

1 (5) if the provider intends to respond to the notice,
2 that the provider must respond not later than the 30th day after the
3 date the provider receives the notice.

4 (c) Notwithstanding any other law, a managed care
5 organization may not attempt to recover an overpayment described by
6 Subsection (a) until the provider has exhausted all rights to an
7 appeal.

8 SECTION 4. The Health and Human Services Commission is
9 required to implement a provision of this Act only if the
10 legislature appropriates money to the commission specifically for
11 that purpose. If the legislature does not appropriate money
12 specifically for that purpose, the commission may, but is not
13 required to, implement a provision of this Act using other
14 appropriations that are available for that purpose.

15 SECTION 5. If before implementing any provision of this Act
16 a state agency determines that a waiver or authorization from a
17 federal agency is necessary for implementation of that provision,
18 the agency affected by the provision shall request the waiver or
19 authorization and may delay implementing that provision until the
20 waiver or authorization is granted.

21 SECTION 6. This Act takes effect September 1, 2019.