

SENATE AMENDMENTS

2nd Printing

By: Phelan, Paddie, Springer,
González of El Paso, Rose, et al.

H.B. No. 1576

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the delivery of certain medical transportation
3 services, including under Medicaid and certain other health and
4 human services programs; imposing a mandatory payment; authorizing
5 an administrative penalty.

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

7 SECTION 1. Section 531.02414(a), Government Code, is
8 amended by amending Subdivision (1) and adding Subdivisions (1-a)
9 and (3) to read as follows:

10 (1) "Medical transportation program" means the
11 program that provides nonemergency transportation services [~~to and~~
12 ~~from covered health care services, based on medical necessity,~~] to
13 recipients under Medicaid, the children with special health care
14 needs program, and the transportation for indigent cancer patients
15 program, who have no other means of transportation.

16 (1-a) "Nonemergency transportation service" means a
17 service provided to transport a person to or from medically
18 necessary services covered under a health care program in which the
19 person is enrolled. The term does not include a nonmedical
20 transportation service as defined by Section 531.024142.

21 (3) "Transportation network company" has the meaning
22 assigned by Section 2402.001, Occupations Code.

23 SECTION 2. Section 531.02414, Government Code, is amended
24 by amending Subsection (f) and adding Subsections (i), (j), (k),

1 (l), and (m) to read as follows:

2 (f) Except as provided by Subsection (j), the [The]
3 commission shall require compliance with the rules adopted under
4 Subsection (e) in any contract entered into with a regional
5 contracted broker to provide nonemergency transportation services
6 under the medical transportation program.

7 (i) Emergency medical services personnel and emergency
8 medical services vehicles, as those terms are defined by Section
9 773.003, Health and Safety Code, may not provide nonemergency
10 transportation services under the medical transportation program.

11 (j) A regional contracted broker may subcontract with a
12 transportation network company to provide services under this
13 section. A rule or other requirement adopted by the executive
14 commissioner under Subsection (e) does not apply to the
15 subcontracted transportation network company or a motor vehicle
16 operator who is part of the company's network. The commission or
17 the regional contracted broker may not require a motor vehicle
18 operator who is part of the subcontracted transportation network
19 company's network to enroll as a Medicaid provider to provide
20 services under this section.

21 (k) The commission or a regional contracted broker that
22 subcontracts with a transportation network company under
23 Subsection (j) may require the transportation network company or a
24 motor vehicle operator who provides services under this section to
25 be periodically screened against the list of excluded individuals
26 and entities maintained by the Office of Inspector General of the
27 United States Department of Health and Human Services.

1 (1) Notwithstanding any other law, a motor vehicle operator
2 who is part of the network of a transportation network company that
3 subcontracts with a regional contracted broker under Subsection (j)
4 and who satisfies the driver requirements in Section 2402.107,
5 Occupations Code, is qualified to provide services under this
6 section. The commission and the regional contracted broker may not
7 impose any additional requirements on a motor vehicle operator who
8 satisfies the driver requirements in Section 2402.107, Occupations
9 Code, to provide services under this section.

10 (m) For purposes of this section and notwithstanding
11 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
12 operator who provides services under this section may use a
13 wheelchair-accessible vehicle equipped with a lift or ramp that is
14 capable of transporting passengers using a fixed-frame wheelchair
15 in the cabin of the vehicle if the vehicle otherwise meets the
16 requirements of Section 2402.111, Occupations Code.

17 SECTION 3. Subchapter B, Chapter 531, Government Code, is
18 amended by adding Section 531.024142 to read as follows:

19 Sec. 531.024142. NONMEDICAL TRANSPORTATION SERVICES UNDER
20 MEDICAID. (a) In this section:

21 (1) "Managed care organization" means a managed care
22 organization that contracts with the commission to provide health
23 care services to Medicaid recipients under Chapter 533.

24 (2) "Nonmedical transportation service" means:

25 (A) curb-to-curb transportation in a standard
26 passenger vehicle to and from a medically necessary, nonemergency
27 covered health care service of a Medicaid recipient enrolled in a

1 managed care plan that the managed care organization that provides
2 health care services to the recipient determines meets the level of
3 care that is medically appropriate for the recipient and that is
4 scheduled not more than 48 hours before the transportation occurs,
5 including transportation related to:

6 (i) discharge of a recipient from a health
7 care facility;

8 (ii) receipt of urgent care; and

9 (iii) obtaining pharmacy services and
10 prescription drugs; and

11 (B) any other transportation to or from a
12 medically necessary, nonemergency covered health care service the
13 commission considers appropriate to be provided by a transportation
14 vendor, as determined by commission rule or policy.

15 (3) "Transportation network company" has the meaning
16 assigned by Section 2402.001, Occupations Code.

17 (4) "Transportation vendor" means an entity,
18 including a transportation network company, that contracts with a
19 managed care organization to provide nonmedical transportation
20 services.

21 (b) The executive commissioner shall adopt rules regarding
22 the manner in which nonmedical transportation services may be
23 arranged and provided.

24 (c) The rules must require a managed care organization to
25 create a process to:

26 (1) verify that a passenger is eligible to receive
27 nonmedical transportation services;

1 (2) ensure that nonmedical transportation services
2 are provided only to and from covered health care services in areas
3 in which a transportation network company operates;

4 (3) refer a Medicaid recipient enrolled in a managed
5 care plan offered by the managed care organization to the medical
6 transportation program described by Section 531.02414 if:

7 (A) by rule the managed care organization is not
8 responsible for providing transportation services; or

9 (B) the recipient requires an accessible or
10 specialized vehicle that is not available through a transportation
11 vendor; and

12 (4) ensure the timely delivery of nonmedical
13 transportation services to a Medicaid recipient, including by
14 setting reasonable service response goals.

15 (d) A rule adopted in accordance with Subsection (c)(4) may
16 not penalize a managed care organization that contracts with a
17 transportation vendor under this section if the vendor is unable to
18 provide nonmedical transportation services to a Medicaid recipient
19 after the managed care organization has made a specific request for
20 those services.

21 (e) The rules must require a transportation vendor to,
22 before permitting a motor vehicle operator to provide nonmedical
23 transportation services:

24 (1) confirm that the operator:

25 (A) is at least 18 years of age;

26 (B) maintains a valid driver's license issued by
27 this state, another state, or the District of Columbia; and

1 (C) possesses proof of registration and
2 automobile financial responsibility for each motor vehicle to be
3 used to provide nonmedical transportation services;

4 (2) conduct, or cause to be conducted, a local, state,
5 and national criminal background check for the operator that
6 includes the use of:

7 (A) a commercial multistate and
8 multijurisdiction criminal records locator or other similar
9 commercial nationwide database; and

10 (B) the national sex offender public website
11 maintained by the United States Department of Justice or a
12 successor agency;

13 (3) confirm that any vehicle to be used to provide
14 nonmedical transportation services:

15 (A) meets the applicable requirements of Chapter
16 548, Transportation Code; and

17 (B) except as provided by Subsection (j), has at
18 least four doors; and

19 (4) obtain and review the operator's driving record.

20 (f) The rules may not permit a motor vehicle operator to
21 provide nonmedical transportation services if the operator:

22 (1) has been convicted in the three-year period
23 preceding the issue date of the driving record obtained under
24 Subsection (e)(4) of:

25 (A) more than three offenses classified by the
26 Department of Public Safety as moving violations; or

27 (B) one or more of the following offenses:

1 (i) fleeing or attempting to elude a police
2 officer under Section 545.421, Transportation Code;

3 (ii) reckless driving under Section
4 545.401, Transportation Code;

5 (iii) driving without a valid driver's
6 license under Section 521.025, Transportation Code; or

7 (iv) driving with an invalid driver's
8 license under Section 521.457, Transportation Code;

9 (2) has been convicted in the preceding seven-year
10 period of any of the following:

11 (A) driving while intoxicated under Section
12 49.04 or 49.045, Penal Code;

13 (B) use of a motor vehicle to commit a felony;

14 (C) a felony crime involving property damage;

15 (D) fraud;

16 (E) theft;

17 (F) an act of violence; or

18 (G) an act of terrorism; or

19 (3) is found to be registered in the national sex
20 offender public website maintained by the United States Department
21 of Justice or a successor agency.

22 (g) The commission may not require:

23 (1) a motor vehicle operator to enroll as a Medicaid
24 provider to provide nonmedical transportation services; or

25 (2) a managed care organization to credential a motor
26 vehicle operator to provide nonmedical transportation services.

27 (h) The commission or a managed care organization that

1 contracts with a transportation vendor may require the
2 transportation vendor or a motor vehicle operator who provides
3 services under this section to be periodically screened against the
4 list of excluded individuals and entities maintained by the Office
5 of Inspector General of the United States Department of Health and
6 Human Services.

7 (i) Notwithstanding any other law, a motor vehicle operator
8 who is part of a transportation network company's network and who
9 satisfies the driver requirements in Section 2402.107, Occupations
10 Code, is qualified to provide nonmedical transportation services.
11 The commission and a managed care organization may not impose any
12 additional requirements on a motor vehicle operator who satisfies
13 the driver requirements in Section 2402.107, Occupations Code, to
14 provide nonmedical transportation services.

15 (j) For purposes of this section and notwithstanding
16 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
17 operator who provides services under this section may use a
18 wheelchair-accessible vehicle equipped with a lift or ramp that is
19 capable of transporting passengers using a fixed-frame wheelchair
20 in the cabin of the vehicle if the vehicle otherwise meets the
21 requirements of Section 2402.111, Occupations Code.

22 SECTION 4. Section 533.00257(a), Government Code, is
23 amended by adding Subdivision (2-a) to read as follows:

24 (2-a) "Transportation network company" has the
25 meaning assigned by Section 2402.001, Occupations Code.

26 SECTION 5. Section 533.00257, Government Code, is amended
27 by amending Subsections (d) and (g) and adding Subsections (k),

1 (l), (m), and (n) to read as follows:

2 (d) Except as provided by Subsections (k) and (m), a [A]
3 managed transportation organization that participates in the
4 medical transportation program must attempt to contract with
5 medical transportation providers that:

6 (1) are considered significant traditional providers,
7 as defined by rule by the executive commissioner;

8 (2) meet the minimum quality and efficiency measures
9 required under Subsection (g) and other requirements that may be
10 imposed by the managed transportation organization; and

11 (3) agree to accept the prevailing contract rate of
12 the managed transportation organization.

13 (g) Except as provided by Subsections (k) and (m), the [The]
14 commission shall require that managed transportation organizations
15 and providers participating in the medical transportation program
16 meet minimum quality and efficiency measures as determined by the
17 commission.

18 (k) A managed transportation organization may subcontract
19 with a transportation network company to provide services under
20 this section. A rule or other requirement adopted by the executive
21 commissioner under this section or Section 531.02414 does not apply
22 to the subcontracted transportation network company or a motor
23 vehicle operator who is part of the company's network. The
24 commission or the managed transportation organization may not
25 require a motor vehicle operator who is part of the subcontracted
26 transportation network company's network to enroll as a Medicaid
27 provider to provide services under this section.

1 (l) The commission or a managed transportation organization
2 that subcontracts with a transportation network company under
3 Subsection (k) may require the transportation network company or a
4 motor vehicle operator who provides services under this section to
5 be periodically screened against the list of excluded individuals
6 and entities maintained by the Office of Inspector General of the
7 United States Department of Health and Human Services.

8 (m) Notwithstanding any other law, a motor vehicle operator
9 who is part of the network of a transportation network company that
10 subcontracts with a managed transportation organization under
11 Subsection (k) and who satisfies the driver requirements in Section
12 2402.107, Occupations Code, is qualified to provide services under
13 this section. The commission and the managed transportation
14 organization may not impose any additional requirements on a motor
15 vehicle operator who satisfies the driver requirements in Section
16 2402.107, Occupations Code, to provide services under this section.

17 (n) For purposes of this section and notwithstanding
18 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
19 operator who provides services under this section may use a
20 wheelchair-accessible vehicle equipped with a lift or ramp that is
21 capable of transporting passengers using a fixed-frame wheelchair
22 in the cabin of the vehicle if the vehicle otherwise meets the
23 requirements of Section 2402.111, Occupations Code.

24 SECTION 6. Subchapter A, Chapter 533, Government Code, is
25 amended by adding Section 533.00259 to read as follows:

26 Sec. 533.00259. DELIVERY OF NONMEDICAL TRANSPORTATION
27 SERVICES. (a) In this section, "nonmedical transportation

1 service" and "transportation vendor" have the meanings assigned by
2 Section 531.024142.

3 (b) The commission shall:

4 (1) not later than January 1, 2020, designate at least
5 four managed care service areas, two of which must be urban service
6 areas, and require each managed care organization that contracts
7 with the commission to provide health care services to recipients
8 in those areas to arrange for the provision of nonmedical
9 transportation services;

10 (2) not later than July 1, 2020, designate at least
11 eight managed care service areas, four of which must be urban
12 service areas, and require each managed care organization that
13 contracts with the commission to provide health care services to
14 recipients in those areas to arrange for the provision of
15 nonmedical transportation services; and

16 (3) not later than January 1, 2021, require each
17 managed care organization that contracts with the commission to
18 provide health care services to recipients to arrange for the
19 provision of nonmedical transportation services.

20 (b-1) A managed care organization may contract with a
21 transportation vendor or other third party to arrange for the
22 provision of nonmedical transportation services. If a managed care
23 organization contracts with a third party that is not a
24 transportation vendor to arrange for the provision of nonmedical
25 transportation services, the third party shall contract with a
26 transportation vendor to deliver the nonmedical transportation
27 services.

1 (c) A managed care organization that contracts with a
2 transportation vendor or other third party to arrange for the
3 provision of nonmedical transportation services shall ensure the
4 effective sharing and integration of service coordination, service
5 authorization, and utilization management data between the managed
6 care organization and the transportation vendor or third party.

7 (d) A managed care organization may not require:

8 (1) a motor vehicle operator to enroll as a Medicaid
9 provider to provide nonmedical transportation services; or

10 (2) the credentialing of a motor vehicle operator to
11 provide nonmedical transportation services.

12 (e) For purposes of this section and notwithstanding
13 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
14 operator who provides services under this section may use a
15 wheelchair-accessible vehicle equipped with a lift or ramp that is
16 capable of transporting passengers using a fixed-frame wheelchair
17 in the cabin of the vehicle if the vehicle otherwise meets the
18 requirements of Section 2402.111, Occupations Code.

19 SECTION 7. Section 773.003, Health and Safety Code, is
20 amended by adding Subdivision (5) to read as follows:

21 (5) "Commission" means the Health and Human Services
22 Commission.

23 SECTION 8. Chapter 773, Health and Safety Code, is amended
24 by adding Subchapter J to read as follows:

25 SUBCHAPTER J. TEXAS AMBULANCE RESPONSE SAFETY NET PROGRAM

26 Sec. 773.301. PURPOSE. The purpose of this subchapter is to
27 authorize the commission to establish and administer the Texas

1 ambulance response safety net program as a self-funded ground
2 ambulance service provider participation program for ground
3 ambulance service providers in accordance with this subchapter.

4 Sec. 773.302. DEFINITIONS. In this subchapter:

5 (1) "Average commercial rate" means the average amount
6 payable by commercial payors for the same service. The rate is
7 calculated by:

8 (A) aligning the paid Medicaid claims with the
9 Medicare fees for each Healthcare Common Procedure Coding System
10 code or Current Procedural Terminology code for a ground ambulance
11 service provider;

12 (B) calculating the Medicare payment for the
13 claims described in Paragraph (A);

14 (C) calculating a commercial-to-Medicare
15 conversion factor for each ground ambulance service provider by
16 dividing the total amount of the average commercial payments for
17 the claims by the total Medicare payments for the claims; and

18 (D) recalculating at least once every three years
19 the commercial-to-Medicare ratio for ground ambulance service
20 providers.

21 (2) "Net patient revenue" means a ground ambulance
22 service provider's estimated net realizable revenue from patients,
23 third-party payors, and other entities for ground ambulance
24 services rendered, including estimated retroactive adjustments
25 required by reimbursement agreements with third-party payors. The
26 term does not include:

27 (A) the amounts the provider reduces for payors

1 who have a fee schedule established by federal or state statute or a
2 contractual agreement;

3 (B) Medicaid payments received by the provider,
4 including any payments for individuals who are dually eligible for
5 Medicaid and Medicare;

6 (C) amounts the provider reduces to zero as an
7 uncollectible payment from any payor that are not contractual
8 allowances, provided that the provider attempted to collect the
9 payment; or

10 (D) amounts related to ground ambulance services
11 that are waived or forgiven by a paying entity due to the financial
12 hardship of the patient, provided that the waiver or forgiveness is
13 implemented in accordance with a written policy of the entity that
14 is consistent with national standards adopted by the Healthcare
15 Financial Management Association or a similar organization.

16 Sec. 773.303. APPLICABILITY. (a) This subchapter applies
17 only to a ground ambulance service provider that is:

18 (1) an emergency medical services provider as defined
19 by Section 773.003 and licensed under this chapter;

20 (2) a nonpublic, nonfederal provider of ground
21 ambulance services; and

22 (3) a participant in the state Medicaid program.

23 (b) This subchapter does not apply to:

24 (1) an entity that provides only nonemergency ground
25 ambulance services;

26 (2) a state or local governmental entity that provides
27 ground ambulance services; or

1 (3) an entity that is required to hold a license under
2 Section 773.045(b).

3 (c) The executive commissioner may not modify the
4 applicability of this subchapter in an effort to comply with the
5 requirements of 42 C.F.R. Section 433.68.

6 Sec. 773.304. MANDATORY PAYMENTS BASED ON NET PATIENT
7 REVENUE. (a) Except as otherwise provided by this subchapter, the
8 commission shall require an annual mandatory payment to be assessed
9 on each ground ambulance service provider's net patient revenue
10 related to the provision of emergency ground ambulance services.
11 The mandatory payment is to be collected quarterly. The commission
12 shall update the amount of the mandatory payment at least annually.

13 (b) The commission shall uniformly and consistently impose
14 the mandatory payment on each ground ambulance service provider and
15 use the same formula for each provider in calculating the mandatory
16 payment.

17 (c) The total amount of all mandatory payments for the state
18 fiscal year in which the mandatory payments are imposed may not
19 exceed:

20 (1) the state portion, excluding any federal financial
21 participation, of the cost of reimbursement enhancements provided
22 in this subchapter that are directly attributable to reimbursements
23 to ground ambulance service providers; or

24 (2) an amount equal to six percent of the net operating
25 revenue of all ground ambulance service providers for the provision
26 of emergency ground ambulance services, or an amount otherwise
27 permitted by federal law, provided that the maximum mandatory

1 payment for a provider in any year may not exceed the provider's net
2 patient revenue, as reported by the provider, subject to Section
3 773.306(b).

4 (d) Subject to the maximum amount prescribed by Subsection
5 (c), the commission shall set the mandatory payment in an amount
6 that in the aggregate generates sufficient revenue to cover the
7 administrative expenses of the commission for activities under this
8 subchapter.

9 (e) Not later than the 30th day before the end of each
10 quarter, the commission shall issue to each ground ambulance
11 service provider a notice of the amount of the mandatory payment
12 required to be paid by the provider in the next quarter.

13 (f) A ground ambulance service provider may not add a
14 mandatory payment required under this subchapter as a surcharge to
15 a patient or a third-party payor.

16 (g) A ground ambulance service provider shall make
17 mandatory payments only in the manner provided by this subchapter.

18 Sec. 773.305. ASSESSMENT AND COLLECTION OF MANDATORY
19 PAYMENTS. (a) Subject to Subsection (b), the commission shall
20 collect a mandatory payment required under this subchapter.

21 (b) The commission may contract for the assessment and
22 collection of mandatory payments under this subchapter.

23 Sec. 773.306. REPORT; INSPECTION OF RECORDS. (a) The
24 commission shall require a ground ambulance service provider to
25 submit a report at least annually, but not more than quarterly, that
26 includes information necessary to assist the commission in making a
27 determination on mandatory payments under this subchapter.

1 (b) The executive commissioner may audit or inspect the
2 records of a ground ambulance service provider to the extent
3 necessary to ensure the accuracy of any data submitted to the
4 commission under this subchapter.

5 Sec. 773.307. FAILURE TO SUBMIT TIMELY OR ACCURATE REPORT
6 OR PAYMENT; AUDIT; ADMINISTRATIVE PENALTY. (a) The commission may
7 assess a reasonable penalty against a ground ambulance service
8 provider, not to exceed 15 percent of the quarterly portion of the
9 provider's mandatory payment, for failure to timely submit the
10 quarterly portion of a mandatory payment or a report required under
11 this subchapter.

12 (b) If a ground ambulance service provider submits an
13 inaccurate report required under this subchapter, the commission
14 may conduct an audit of the provider's records and may require the
15 provider to pay the cost of any audit expenses and related hearings.

16 (c) A penalty assessed under this section is in addition to
17 any other penalties and remedies applicable under state or federal
18 law.

19 (d) If a ground ambulance service provider refuses to submit
20 a quarterly portion of a mandatory payment, the commission may
21 suspend all Medicaid payments to the provider until:

22 (1) the provider submits the quarterly portion of the
23 mandatory payment and any associated penalties; or

24 (2) the provider and the commission reach a negotiated
25 settlement.

26 Sec. 773.308. TEXAS AMBULANCE RESPONSE SAFETY NET TRUST
27 FUND. (a) The Texas ambulance response safety net trust fund is

1 established as a trust fund to be held by the comptroller outside
2 the state treasury and administered by the commission as trustee.

3 (b) The trust fund consists of:

4 (1) all revenue from the mandatory payments required
5 by this subchapter, including any administrative penalties and any
6 interest attributable to delinquent payments; and

7 (2) the earnings of the fund.

8 (c) Money deposited to the trust fund may be used only to:

9 (1) provide reimbursements for ground ambulance
10 services delivered to Medicaid recipients under a fee-for-service
11 arrangement by a ground ambulance service provider to which this
12 subchapter applies based on the provider's average commercial rate,
13 including reimbursement enhancements to the statewide dollar
14 amount rate used to reimburse ground ambulance service providers;

15 (2) pay the administrative expenses of the commission
16 solely for activities under this subchapter; and

17 (3) refund a portion of a mandatory payment collected
18 in error from a provider.

19 (d) All revenue from the mandatory payments required by this
20 subchapter must be deposited in the trust fund.

21 (e) Money in the trust fund may not be used to expand
22 Medicaid eligibility under the Patient Protection and Affordable
23 Care Act (Pub. L. No. 111-148) as amended by the Health Care and
24 Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

25 Sec. 773.309. INVALIDITY; FEDERAL FUNDS. The commission
26 shall stop collection of the mandatory payment and, not later than
27 the 30th day after the date collection is stopped, return to each

1 ground ambulance service provider, in proportion to the total
2 amount paid by each provider compared to the total amount paid by
3 all providers, any unspent money deposited to the credit of the
4 trust fund, if:

5 (1) any provision of or procedure under this
6 subchapter is held invalid by a final court order that is not
7 subject to appeal;

8 (2) the commission determines that the imposition of
9 the mandatory payment and the expenditure of amounts collected as
10 prescribed by this subchapter will not entitle the state to receive
11 federal matching funds under the Medicaid program or will be
12 inconsistent with the objectives described by Section
13 537.002(b)(7), Government Code; or

14 (3) the commission determines that the amount of the
15 mandatory payments collected would exceed the amount paid in
16 increased Medicaid fee-for-service reimbursement rates for
17 services provided to individuals who are dually eligible for
18 Medicaid and Medicare.

19 Sec. 773.310. RULES. The executive commissioner shall
20 adopt rules necessary to implement this subchapter.

21 SECTION 9. Subchapter B, Chapter 32, Human Resources Code,
22 is amended by adding Section 32.080 to read as follows:

23 Sec. 32.080. ENHANCED PAYMENT MODEL FOR CERTAIN AMBULANCE
24 PROVIDERS. (a) The executive commissioner, in consultation with
25 ambulance providers, by rule shall establish an enhanced payment
26 model for reimbursing non-state operated public ambulance
27 providers who provide ground emergency medical transportation

1 services to recipients of medical assistance. The enhanced payment
2 model must be implemented under the Medicaid fee-for-service
3 delivery model through supplemental payments and the Medicaid
4 managed care delivery model through an enhanced reimbursement or
5 payment rate.

6 (b) The commission may not use general revenue to reimburse
7 non-state operated public ambulance providers under or administer
8 the enhanced payment model.

9 (c) Reimbursements made under the enhanced payment model
10 must be:

11 (1) in addition to money appropriated to the
12 commission for reimbursing non-state operated public ambulance
13 providers; and

14 (2) provided in a manner that maximizes the
15 availability of federal money.

16 (d) Under the enhanced payment model, the commission may:

17 (1) receive and spend money from an intergovernmental
18 transfer on:

19 (A) reimbursing non-state operated public
20 ambulance providers; and

21 (B) covering the cost of establishing and
22 administering the enhanced payment model; and

23 (2) as necessary, certify that reimbursements made
24 under the enhanced payment model are public funds eligible for
25 federal financial participation in accordance with the
26 requirements of 42 C.F.R. Section 433.51.

27 SECTION 10. As soon as practicable after the effective date

1 of this Act, the executive commissioner of the Health and Human
2 Services Commission shall establish the amount of the initial
3 mandatory payment imposed under Subchapter J, Chapter 773, Health
4 and Safety Code, as added by this Act, based on available net
5 patient revenue information.

6 SECTION 11. If before implementing any provision of this
7 Act a state agency determines that a waiver or authorization from a
8 federal agency is necessary for implementation of that provision,
9 the agency affected by the provision shall request the waiver or
10 authorization and:

11 (1) for a provision of Subchapter J, Chapter 773,
12 Health and Safety Code, as added by this Act, shall delay
13 implementing that provision, including the collection of a
14 mandatory payment, until the waiver or authorization is granted and
15 begin implementing the provision on the date the waiver or
16 authorization is granted; and

17 (2) for any other provision, may delay implementing
18 the provision until the waiver or authorization is granted.

19 SECTION 12. 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 rules as necessary to implement the
22 changes in law made by this Act.

23 SECTION 13. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

Leta Spaw
Secretary of the Senate

By: Phelan/Buckingham

____.B. No. ____

Substitute the following for ____B. No. ____:

By: *D. Buckingham*

C.S. H.B. No. 1576

A BILL TO BE ENTITLED

AN ACT

1 relating to the delivery of certain transportation services under
2 Medicaid and certain other health and human services programs.

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

4 SECTION 1. Section 531.001, Government Code, is amended by
5 adding Subdivision (4-c) to read as follows:

6 (4-c) "Medicaid managed care organization" means a
7 managed care organization as defined by Section 533.001 that
8 contracts with the commission under Chapter 533 to provide health
9 care services to Medicaid recipients.

10 SECTION 2. The heading to Section 531.02414, Government
11 Code, is amended to read as follows:

12 Sec. 531.02414. NONEMERGENCY TRANSPORTATION SERVICES UNDER
13 [ADMINISTRATION AND OPERATION OF] MEDICAL TRANSPORTATION PROGRAM.

14 SECTION 3. Section 531.02414(a), Government Code, is
15 amended by amending Subdivision (1) and adding Subdivisions (1-a)
16 and (3) to read as follows:

17 (1) "Medical transportation program" means the
18 program that provides nonemergency transportation services [~~to and~~
19 ~~from covered health care services, based on medical necessity,~~]
20 recipients under Medicaid, subject to Subsection (a-1), the
21 children with special health care needs program, and the
22 transportation for indigent cancer patients program, who have no
23 other means of transportation.
24

1 (1-a) "Nonemergency transportation service" means
2 nonemergency medical transportation services authorized under:

3 (A) for a Medicaid recipient, the state Medicaid
4 plan; and

5 (B) for a recipient under another program
6 described by Subdivision (1), that program.

7 (3) "Transportation network company" has the meaning
8 assigned by Section 2402.001, Occupations Code.

9 SECTION 4. Section 531.02414, Government Code, is amended
10 by adding Subsections (a-1), (i), (j), (k), (l), and (m) and
11 amending Subsections (b), (e), and (f) to read as follows:

12 (a-1) This section does not apply to the provision of
13 nonemergency transportation services on or after September 1, 2020,
14 to a Medicaid recipient who is enrolled in a managed care plan
15 offered by a Medicaid managed care organization.

16 (b) Notwithstanding any other law, the commission shall
17 directly supervise the administration and operation of the medical
18 transportation program under this section.

19 (e) The executive commissioner shall adopt rules to ensure
20 the safe and efficient provision of nonemergency transportation
21 services under this section [~~the medical transportation program by~~
22 ~~regional contracted brokers and subcontractors of regional~~
23 ~~contracted brokers~~]. The rules must include:

24 (1) minimum standards regarding the physical
25 condition and maintenance of motor vehicles used to provide the
26 services, including standards regarding the accessibility of motor
27 vehicles by persons with disabilities;

1 (2) a requirement that a regional contracted broker
2 verify that each motor vehicle operator providing the services or
3 seeking to provide the services has a valid driver's license;

4 (3) a requirement that a regional contracted broker
5 check the driving record information maintained by the Department
6 of Public Safety under Subchapter C, Chapter 521, Transportation
7 Code, of each motor vehicle operator providing the services or
8 seeking to provide the services;

9 (4) a requirement that a regional contracted broker
10 check the public criminal record information maintained by the
11 Department of Public Safety and made available to the public
12 through the department's Internet website of each motor vehicle
13 operator providing the services or seeking to provide the services;
14 and

15 (5) training requirements for motor vehicle operators
16 providing the services through a regional contracted broker,
17 including training on the following topics:

- 18 (A) passenger safety;
- 19 (B) passenger assistance;
- 20 (C) assistive devices, including wheelchair
21 lifts, tie-down equipment, and child safety seats;
- 22 (D) sensitivity and diversity;
- 23 (E) customer service;
- 24 (F) defensive driving techniques; and
- 25 (G) prohibited behavior by motor vehicle
26 operators.

27 (f) Except as provided by Subsection (j), the [The]

1 commission shall require compliance with the rules adopted under
2 Subsection (e) in any contract entered into with a regional
3 contracted broker to provide nonemergency transportation services
4 under the medical transportation program.

5 (i) Emergency medical services personnel and emergency
6 medical services vehicles, as those terms are defined by Section
7 773.003, Health and Safety Code, may not provide nonemergency
8 transportation services under the medical transportation program.

9 (j) A regional contracted broker may subcontract with a
10 transportation network company to provide services under this
11 section. A rule or other requirement adopted by the executive
12 commissioner under Subsection (e) does not apply to the
13 subcontracted transportation network company or a motor vehicle
14 operator who is part of the company's network. The commission or
15 the regional contracted broker may not require a motor vehicle
16 operator who is part of the subcontracted transportation network
17 company's network to enroll as a Medicaid provider to provide
18 services under this section.

19 (k) The commission or a regional contracted broker that
20 subcontracts with a transportation network company under
21 Subsection (j) may require the transportation network company or a
22 motor vehicle operator who provides services under this section to
23 be periodically screened against the list of excluded individuals
24 and entities maintained by the Office of Inspector General of the
25 United States Department of Health and Human Services.

26 (l) Notwithstanding any other law, a motor vehicle operator
27 who is part of the network of a transportation network company that

1 subcontracts with a regional contracted broker under Subsection (j)
2 and who satisfies the driver requirements in Section 2402.107,
3 Occupations Code, is qualified to provide services under this
4 section. The commission and the regional contracted broker may not
5 impose any additional requirements on a motor vehicle operator who
6 satisfies the driver requirements in Section 2402.107, Occupations
7 Code, to provide services under this section.

8 (m) For purposes of this section and notwithstanding
9 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
10 operator who provides services under this section may use a
11 wheelchair-accessible vehicle equipped with a lift or ramp that is
12 capable of transporting passengers using a fixed-frame wheelchair
13 in the cabin of the vehicle if the vehicle otherwise meets the
14 requirements of Section 2402.111, Occupations Code.

15 SECTION 5. The heading to Section 533.00257, Government
16 Code, is amended to read as follows:

17 Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM
18 SERVICES THROUGH MANAGED TRANSPORTATION ORGANIZATION.

19 SECTION 6. Section 533.00257(a), Government Code, is
20 amended by adding Subdivision (2-a) to read as follows:

21 (2-a) "Transportation network company" has the
22 meaning assigned by Section 2402.001, Occupations Code.

23 SECTION 7. Section 533.00257, Government Code, is amended
24 by amending Subsections (b), (d), and (g) and adding Subsections
25 (k), (l), (m), and (n) to read as follows:

26 (b) The [~~Subject to Subsection (i), the~~] commission may
27 [~~shall~~] provide medical transportation program services on a

1 regional basis through a managed transportation delivery model
2 using managed transportation organizations and providers, as
3 appropriate, that:

4 (1) operate under a capitated rate system;
5 (2) assume financial responsibility under a full-risk
6 model;

7 (3) operate a call center;
8 (4) use fixed routes when available and appropriate;
9 and

10 (5) agree to provide data to the commission if the
11 commission determines that the data is required to receive federal
12 matching funds.

13 (d) Except as provided by Subsections (k) and (m), a [A]
14 managed transportation organization that participates in the
15 medical transportation program must attempt to contract with
16 medical transportation providers that:

17 (1) are considered significant traditional providers,
18 as defined by rule by the executive commissioner;

19 (2) meet the minimum quality and efficiency measures
20 required under Subsection (g) and other requirements that may be
21 imposed by the managed transportation organization; and

22 (3) agree to accept the prevailing contract rate of
23 the managed transportation organization.

24 (g) Except as provided by Subsections (k) and (m), the [The]
25 commission shall require that managed transportation organizations
26 and providers participating in the medical transportation program
27 meet minimum quality and efficiency measures as determined by the

1 commission.

2 (k) A managed transportation organization may subcontract
3 with a transportation network company to provide services under
4 this section. A rule or other requirement adopted by the executive
5 commissioner under this section or Section 531.02414 does not apply
6 to the subcontracted transportation network company or a motor
7 vehicle operator who is part of the company's network. The
8 commission or the managed transportation organization may not
9 require a motor vehicle operator who is part of the subcontracted
10 transportation network company's network to enroll as a Medicaid
11 provider to provide services under this section.

12 (l) The commission or a managed transportation organization
13 that subcontracts with a transportation network company under
14 Subsection (k) may require the transportation network company or a
15 motor vehicle operator who provides services under this section to
16 be periodically screened against the list of excluded individuals
17 and entities maintained by the Office of Inspector General of the
18 United States Department of Health and Human Services.

19 (m) Notwithstanding any other law, a motor vehicle operator
20 who is part of the network of a transportation network company that
21 subcontracts with a managed transportation organization under
22 Subsection (k) and who satisfies the driver requirements in Section
23 2402.107, Occupations Code, is qualified to provide services under
24 this section. The commission and the managed transportation
25 organization may not impose any additional requirements on a motor
26 vehicle operator who satisfies the driver requirements in Section
27 2402.107, Occupations Code, to provide services under this section.

1 (n) For purposes of this section and notwithstanding
2 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
3 operator who provides services under this section may use a
4 wheelchair-accessible vehicle equipped with a lift or ramp that is
5 capable of transporting passengers using a fixed-frame wheelchair
6 in the cabin of the vehicle if the vehicle otherwise meets the
7 requirements of Section 2402.111, Occupations Code.

8 SECTION 8. Subchapter A, Chapter 533, Government Code, is
9 amended by adding Sections 533.002571, 533.00258, and 533.002581 to
10 read as follows:

11 Sec. 533.002571. DELIVERY OF NONEMERGENCY TRANSPORTATION
12 SERVICES TO CERTAIN MEDICAID RECIPIENTS THROUGH MEDICAID MANAGED
13 CARE ORGANIZATION. (a) In this section:

14 (1) "Nonemergency transportation service" has the
15 meaning assigned by Section 531.02414.

16 (2) "Nonmedical transportation service" and
17 "transportation network company" have the meanings assigned by
18 Section 533.00258.

19 (b) The commission shall require each Medicaid managed care
20 organization to arrange and provide nonemergency transportation
21 services to a recipient enrolled in a managed care plan offered by
22 the organization using the most cost-effective and cost-efficient
23 method of delivery, including by delivering nonmedical
24 transportation services through a transportation network company
25 or other transportation vendor as provided by Section 533.002581,
26 if available and medically appropriate. The commission shall
27 supervise the provision of the services.

1 (c) Subject to Subsection (d), the executive commissioner
2 shall adopt:

3 (1) rules applicable to the provision of nonemergency
4 medical transportation services by a Medicaid managed care
5 organization that impose the same standards and requirements as
6 those adopted under Section 531.02414(e); and

7 (2) other rules as necessary to ensure the safe and
8 efficient provision of nonemergency transportation services by a
9 Medicaid managed care organization under this section.

10 (d) A Medicaid managed care organization may subcontract
11 with a transportation network company to provide nonemergency
12 transportation services under this section. A rule or other
13 requirement adopted by the executive commissioner under Subsection
14 (c) or Section 531.02414 does not apply to the subcontracted
15 transportation network company or a motor vehicle operator who is
16 part of the company's network. The commission or the Medicaid
17 managed care organization may not require a motor vehicle operator
18 who is part of the subcontracted transportation network company's
19 network to enroll as a Medicaid provider to provide services under
20 this section.

21 (e) The commission or a Medicaid managed care organization
22 that subcontracts with a transportation network company under
23 Subsection (d) may require the transportation network company or a
24 motor vehicle operator who provides services under this section to
25 be periodically screened against the list of excluded individuals
26 and entities maintained by the Office of Inspector General of the
27 United States Department of Health and Human Services.

1 (f) Notwithstanding any other law, a motor vehicle operator
2 who is part of the network of a transportation network company that
3 subcontracts with a Medicaid managed care organization under
4 Subsection (d) and who satisfies the driver requirements in Section
5 2402.107, Occupations Code, is qualified to provide services under
6 this section. The commission and the Medicaid managed care
7 organization may not impose any additional requirements on a motor
8 vehicle operator who satisfies the driver requirements in Section
9 2402.107, Occupations Code, to provide services under this section.

10 (g) For purposes of this section and notwithstanding
11 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
12 operator who provides services under this section may use a
13 wheelchair-accessible vehicle equipped with a lift or ramp that is
14 capable of transporting passengers using a fixed-frame wheelchair
15 in the cabin of the vehicle if the vehicle otherwise meets the
16 requirements of Section 2402.111, Occupations Code.

17 (h) The commission may temporarily waive the applicability
18 of Subsection (b) to a Medicaid managed care organization as
19 necessary based on the results of a review conducted under Section
20 533.007 and until enrollment of recipients in a managed care plan
21 offered by the organization is permitted under that section.

22 (i) The commission shall extend a contract for the provision
23 of nonemergency transportation services under Section 533.00257 or
24 other law as necessary until the requirements of this section are
25 implemented with respect to each Medicaid managed care
26 organization. This subsection expires September 1, 2023.

27 Sec. 533.00258. NONMEDICAL TRANSPORTATION SERVICES UNDER

1 MEDICAID MANAGED CARE PROGRAM. (a) In this section:

2 (1) "Nonmedical transportation service" means:

3 (A) curb-to-curb transportation to or from a
4 medically necessary, nonemergency covered health care service in a
5 standard passenger vehicle that is scheduled not more than 48 hours
6 before the transportation occurs, that is provided to a recipient
7 enrolled in a managed care plan offered by a Medicaid managed care
8 organization, and that the organization determines meets the level
9 of care that is medically appropriate for the recipient, including
10 transportation related to:

11 (i) discharge of a recipient from a health
12 care facility;

13 (ii) receipt of urgent care; and

14 (iii) obtaining pharmacy services and
15 prescription drugs; and

16 (B) any other transportation to or from a
17 medically necessary, nonemergency covered health care service the
18 commission considers appropriate to be provided by a transportation
19 vendor, as determined by commission rule or policy.

20 (2) "Transportation network company" has the meaning
21 assigned by Section 2402.001, Occupations Code.

22 (3) "Transportation vendor" means an entity,
23 including a transportation network company, that contracts with a
24 Medicaid managed care organization to provide nonmedical
25 transportation services.

26 (b) The executive commissioner shall adopt rules regarding
27 the manner in which nonmedical transportation services may be

1 arranged and provided.

2 (c) The rules must require a Medicaid managed care
3 organization to create a process to:

4 (1) verify that a passenger is eligible to receive
5 nonmedical transportation services;

6 (2) ensure that nonmedical transportation services
7 are provided only to and from covered health care services in areas
8 in which a transportation network company operates; and

9 (3) ensure the timely delivery of nonmedical
10 transportation services to a recipient, including by setting
11 reasonable service response goals.

12 (d) Before September 1, 2020, and subject to Section
13 533.002581(h), a rule adopted in accordance with Subsection (c)(3)
14 may not impose a penalty on a Medicaid managed care organization
15 that contracts with a transportation vendor under this section if
16 the vendor is unable to provide nonmedical transportation services
17 to a recipient after the Medicaid managed care organization has
18 made a specific request for those services.

19 (e) The rules must require a transportation vendor to,
20 before permitting a motor vehicle operator to provide nonmedical
21 transportation services:

22 (1) confirm that the operator:

23 (A) is at least 18 years of age;

24 (B) maintains a valid driver's license issued by
25 this state, another state, or the District of Columbia; and

26 (C) possesses proof of registration and
27 automobile financial responsibility for each motor vehicle to be

1 used to provide nonmedical transportation services;

2 (2) conduct, or cause to be conducted, a local, state,
3 and national criminal background check for the operator that
4 includes the use of:

5 (A) a commercial multistate and
6 multijurisdiction criminal records locator or other similar
7 commercial nationwide database; and

8 (B) the national sex offender public website
9 maintained by the United States Department of Justice or a
10 successor agency;

11 (3) confirm that any vehicle to be used to provide
12 nonmedical transportation services:

13 (A) meets the applicable requirements of Chapter
14 548, Transportation Code; and

15 (B) except as provided by Subsection (j), has at
16 least four doors; and

17 (4) obtain and review the operator's driving record.

18 (f) The rules may not permit a motor vehicle operator to
19 provide nonmedical transportation services if the operator:

20 (1) has been convicted in the three-year period
21 preceding the issue date of the driving record obtained under
22 Subsection (e)(4) of:

23 (A) more than three offenses classified by the
24 Department of Public Safety as moving violations; or

25 (B) one or more of the following offenses:

26 (i) fleeing or attempting to elude a police
27 officer under Section 545.421, Transportation Code;

1 (ii) reckless driving under Section
2 545.401, Transportation Code;

3 (iii) driving without a valid driver's
4 license under Section 521.025, Transportation Code; or

5 (iv) driving with an invalid driver's
6 license under Section 521.457, Transportation Code;

7 (2) has been convicted in the preceding seven-year
8 period of any of the following:

9 (A) driving while intoxicated under Section
10 49.04 or 49.045, Penal Code;

11 (B) use of a motor vehicle to commit a felony;

12 (C) a felony crime involving property damage;

13 (D) fraud;

14 (E) theft;

15 (F) an act of violence; or

16 (G) an act of terrorism; or

17 (3) is found to be registered in the national sex
18 offender public website maintained by the United States Department
19 of Justice or a successor agency.

20 (g) The commission may not require:

21 (1) a motor vehicle operator to enroll as a Medicaid
22 provider to provide nonmedical transportation services; or

23 (2) a Medicaid managed care organization to credential
24 a motor vehicle operator to provide nonmedical transportation
25 services.

26 (h) The commission or a Medicaid managed care organization
27 that contracts with a transportation vendor may require the

1 transportation vendor or a motor vehicle operator who provides
2 services under this section to be periodically screened against the
3 list of excluded individuals and entities maintained by the Office
4 of Inspector General of the United States Department of Health and
5 Human Services.

6 (i) Notwithstanding any other law, a motor vehicle operator
7 who is part of a transportation network company's network and who
8 satisfies the driver requirements in Section 2402.107, Occupations
9 Code, is qualified to provide nonmedical transportation services.
10 The commission and a Medicaid managed care organization may not
11 impose any additional requirements on a motor vehicle operator who
12 satisfies the driver requirements in Section 2402.107, Occupations
13 Code, to provide nonmedical transportation services.

14 (j) For purposes of this section and notwithstanding
15 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
16 operator who provides services under this section may use a
17 wheelchair-accessible vehicle equipped with a lift or ramp that is
18 capable of transporting passengers using a fixed-frame wheelchair
19 in the cabin of the vehicle if the vehicle otherwise meets the
20 requirements of Section 2402.111, Occupations Code.

21 Sec. 533.002581. DELIVERY OF NONMEDICAL TRANSPORTATION
22 SERVICES UNDER MEDICAID MANAGED CARE PROGRAM. (a) In this section,
23 "nonmedical transportation service" and "transportation vendor"
24 have the meanings assigned by Section 533.00258.

25 (b) The commission shall designate managed care service
26 areas in which to require, beginning not later than January 1, 2020,
27 each Medicaid managed care organization with which the commission

1 has a contract that is anticipated to be in effect on September 1,
2 2020, and that operates in a designated service area to arrange for
3 the provision of nonmedical transportation services to recipients
4 enrolled in a managed care plan offered by the organization. The
5 commission shall designate at least three, but not more than four,
6 managed care service areas for purposes of this subsection. At
7 least one of the designated service areas must be located in an
8 urban service area, and at least one must be located in a rural
9 service area. This subsection expires September 1, 2021.

10 (c) The commission shall require each Medicaid managed care
11 organization to arrange for the provision of nonmedical
12 transportation services to recipients enrolled in a managed care
13 plan offered by the organization.

14 (d) A Medicaid managed care organization may contract with a
15 transportation vendor or other third party to arrange for the
16 provision of nonmedical transportation services. If a Medicaid
17 managed care organization contracts with a third party that is not a
18 transportation vendor to arrange for the provision of nonmedical
19 transportation services, the third party shall contract with a
20 transportation vendor to deliver the nonmedical transportation
21 services.

22 (e) A Medicaid managed care organization that contracts
23 with a transportation vendor or other third party to arrange for the
24 provision of nonmedical transportation services shall ensure the
25 effective sharing and integration of service coordination, service
26 authorization, and utilization management data between the managed
27 care organization and the transportation vendor or third party.

1 (f) A Medicaid managed care organization may not require:

2 (1) a motor vehicle operator to enroll as a Medicaid
3 provider to provide nonmedical transportation services; or

4 (2) the credentialing of a motor vehicle operator to
5 provide nonmedical transportation services.

6 (g) For purposes of this section and notwithstanding
7 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
8 operator who provides services under this section may use a
9 wheelchair-accessible vehicle equipped with a lift or ramp that is
10 capable of transporting passengers using a fixed-frame wheelchair
11 in the cabin of the vehicle if the vehicle otherwise meets the
12 requirements of Section 2402.111, Occupations Code.

13 (h) The commission may waive the applicability of
14 Subsection (c) to a Medicaid managed care organization for not more
15 than three months as necessary based on the results of a review
16 conducted under Section 533.007 and until enrollment of recipients
17 in a managed care plan offered by the organization is permitted
18 under that section.

19 SECTION 9. Section 533.00257(i), Government Code, is
20 repealed.

21 SECTION 10. Notwithstanding Sections 533.002571(b) and
22 533.002581(b), Government Code, as added by this Act, the Health
23 and Human Services Commission is not required to implement those
24 subsections until September 1, 2020.

25 SECTION 11. If before implementing any provision of this
26 Act a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 12. As soon as practicable after the effective date
5 of this Act, the executive commissioner of the Health and Human
6 Services Commission shall adopt rules as necessary to implement the
7 changes in law made by this Act.

8 SECTION 13. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2019.

ADOPTED

✓✓
MAY 22 2019

Henry Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *D. Bucking*

1 Amend C.S.H.B. 1576 (senate committee printing) as follows:

2 (1) In SECTION 4 of the bill, in added Section
3 531.02414(a-1), Government Code (page 1, line 56), strike "This"
4 and substitute "Subject to Section 533.002571(i), this".

5 (2) In SECTION 8 of the bill, strike added Section
6 533.002571(c), Government Code (page 4, lines 36-44), and
7 substitute the following:

8 (c) Subject to Subsection (d), the executive commissioner
9 shall adopt rules as necessary to ensure the safe and efficient
10 provision of nonemergency transportation services by a Medicaid
11 managed care organization under this section.

12 (3) In SECTION 8 of the bill, in added Section
13 533.002581(c), Government Code (page 7, line 27), strike "The
14 commission" and substitute "Beginning not later than September 1,
15 2020, the commission".

16 (4) In SECTION 10 of the bill (page 7, line 66), strike
17 "533.002581(b)" and substitute "533.002581(c)".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.), **As Passed 2nd House**

<p>The fiscal implications of the bill cannot be determined at this time. The bill may result in a cost. The effect on utilization and cost of services is also unknown.</p>

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission (HHSC) to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services no later than September 1, 2020. The bill would take effect immediately if it receives a vote of two-thirds in each house. Otherwise, the bill takes effect September 1, 2019.

The fiscal impact of the bill cannot be determined; however, a significant cost would be anticipated. It is unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provision of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 304 Comptroller of Public Accounts

LBB Staff: WP, AKi, EP, MDI, JQ, BH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 19, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.), **Committee Report 2nd House, Substituted**

<p>The fiscal implications of the bill cannot be determined at this time. The bill may result in a cost. The effect on utilization and cost of services is also unknown.</p>

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission (HHSC) to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services. The bill would take effect immediately if it receives a vote of two-thirds in each house. Otherwise, the bill takes effect September 1, 2019.

The fiscal impact of the bill cannot be determined; however, a significant cost would be anticipated. It is unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provision of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 304 Comptroller of Public Accounts

LBB Staff: WP, AKi, EP, MDI, JQ, BH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 6, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain medical transportation services, including under Medicaid and certain other health and human services programs; imposing a mandatory payment; authorizing an administrative penalty.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time because HHSC does not collect information from private providers regarding their revenues from non-Medicaid payers, nor does HHSC collect cost reports from all governmental ambulance providers. The effect on utilization and cost of services is also unknown.

Fiscal Analysis

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission (HHSC) to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services.

The bill would establish the Texas ambulance response safety net program to provide reimbursement for certain ground ambulance services delivered to Texas Medicaid clients. The program would be administered by HHSC. The program would be funded by quarterly payments, determined by a formula, from ground ambulance service providers. HHSC would be required to set the payment amounts to generate sufficient revenue to cover the agency's administrative expenses related to the program and would be required to update the amount of the payment at least annually.

The bill would also set a maximum collectible amount of revenue for the program based on certain criteria, including that the maximum total payment imposed may not exceed 6% of the net operating revenue of all ground transport emergency medical services providers, and the maximum payment for a provider may not exceed the provider's net patient revenue. The bill would also authorize HHSC to assess a reasonable penalty, not to exceed 15 percent of the quarterly portion of the provider's mandatory payment, for failure to submit the quarterly payment as required. The bill would provide that if a ground ambulance services provider refuses to submit a quarterly portion of a mandatory payment, HHSC may suspend all Medicaid payments to the provider until the provider submits the quarterly portion of the payment and any associated penalties or the provider and HHSC reach a negotiated settlement.

The bill would establish the Texas Ambulance Response Safety Net Trust Fund, to be held by the

Comptroller outside of the treasury and administered by HHSC, to consist of all revenue from payments and penalties specified in the bill and the fund's earnings. The fund would be used for reimbursements and refunds to participating providers and HHSC's administrative expenses. The bill would require that the trust fund may not be used to expand Medicaid eligibility under the Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010.

The bill would require HHSC to establish an enhanced payment model for non-state operated public ambulance providers who provide ground emergency medical transportation services. The bill would prohibit HHSC from using General Revenue to reimburse providers under or to administer the enhanced payment model.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect immediately if it receives a vote of two-thirds in each house. Otherwise, the bill takes effect September 1, 2019.

Methodology

HHSC and the Comptroller of Public Accounts (CPA) indicate that the fiscal impact of the bill cannot be determined. CPA notes that the bill stipulates the maximum annual fee assessed could not exceed six percent of net operating revenue of ground transport emergency medical services providers or the state portion of reimbursement enhancements, both of which are unknown. HHSC also indicates that they do not have enough information to estimate how much revenue would be collected from ground transport emergency medical service providers. According to the CPA, HHSC estimates that if all providers were taxed at six percent, program revenue would be greater than \$65 million in All Funds annually. It is also unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provisions of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

HHSC estimated that they would need 23.0 additional FTEs to perform audits of ambulance providers and make technology changes to collect and review cost reports and financial statements. The agency estimates the cost related to these FTEs and technology changes would be approximately \$2.6 million in General Revenue Funds and approximately \$2.6 million in Federal Funds during the 2020-21 biennium. In future fiscal years, the cost would be approximately \$1.2 million in General Revenue and \$1.2 million in Federal Funds in each fiscal year.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services
Commission

LBB Staff: WP, AKi, EP, MDI, JQ, BH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 7, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined at this time. The bill may result in a cost. The effect on utilization and cost of services is unknown.

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services.

The fiscal impact of the bill cannot be determined. It is unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provisions of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, EP, MDI, LR, KT

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1**

March 18, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time. The bill may result in a cost. The effect on utilization and cost of services is unknown.

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services.

The fiscal impact of the bill cannot be determined. It is unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provisions of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, LR, KT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 18, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1576 by Phelan (Relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.), **As Introduced**

<p>The fiscal implications of the bill cannot be determined at this time but a significant cost would be anticipated. The effect on utilization and cost of services is unknown.</p>

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services.

The fiscal impact of the bill cannot be determined; however, a significant cost would be anticipated. It is unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provisions of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, LR, KT