

House Bill 1576
Senate Amendments
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HOUSE VERSION

No equivalent provision.

No equivalent provision.

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

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

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

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

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

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

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

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

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

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

(A) for a Medicaid recipient, the state Medicaid plan; and
(B) for a recipient under another program described by Subdivision (1), that program.

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

SECTION 2. Section 531.02414, Government Code, is amended by amending Subsection (f) and adding Subsections (i), (j), (k), (l), and (m) to read as follows:

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

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

(a-1) Subject to Section 533.002571(i), this section does not apply to the provision of nonemergency transportation services on or after September 1, 2020, to a Medicaid recipient who is enrolled in a managed care plan offered by a Medicaid managed care organization. [FA1(1)]

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

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

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

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

(3) a requirement that a regional contracted broker check the driving record information maintained by the Department of Public Safety under Subchapter C, Chapter 521,

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Transportation Code, of each motor vehicle operator providing the services or seeking to provide the services;
(4) a requirement that a regional contracted broker check the public criminal record information maintained by the Department of Public Safety and made available to the public through the department's Internet website of each motor vehicle operator providing the services or seeking to provide the services; and
(5) training requirements for motor vehicle operators providing the services through a regional contracted broker, including training on the following topics:
(A) passenger safety;
(B) passenger assistance;
(C) assistive devices, including wheelchair lifts, tie-down equipment, and child safety seats;
(D) sensitivity and diversity;
(E) customer service;
(F) defensive driving techniques; and
(G) prohibited behavior by motor vehicle operators.

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

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

(j) A regional contracted broker may subcontract with a transportation network company to provide services under

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

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

(j) A regional contracted broker may subcontract with a transportation network company to provide services under

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this section. A rule or other requirement adopted by the executive commissioner under Subsection (e) does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network. The commission or the regional contracted broker may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

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

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

(m) For purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides services under this section may use a wheelchair-accessible vehicle equipped with a lift

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this section. A rule or other requirement adopted by the executive commissioner under Subsection (e) does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network. The commission or the regional contracted broker may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

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

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

(m) For purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides services under this section may use a wheelchair-accessible vehicle equipped with a lift or ramp

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or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

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

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that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

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

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

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

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

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

(c) Subject to Subsection (d), the executive commissioner shall adopt rules as necessary to ensure the safe and efficient provision of nonemergency transportation services by a

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Medicaid managed care organization under this section.
[FA1(2)]

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

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

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

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Section 2402.107, Occupations Code, to provide services under this section.

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

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

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

Sec. 533.00258. NONMEDICAL TRANSPORTATION SERVICES UNDER MEDICAID MANAGED CARE PROGRAM. (a) In this section:

(1) "Nonmedical transportation service" means:

(A) curb-to-curb transportation to or from a medically necessary, nonemergency covered health care service in a

Sec. 531.024142. NONMEDICAL TRANSPORTATION SERVICES UNDER MEDICAID.

(a) In this section:

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

(2) "Nonmedical transportation service" means:

(A) curb-to-curb transportation in a standard passenger vehicle to and from a medically necessary, nonemergency

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covered health care service of a Medicaid recipient enrolled in a managed care plan that the managed care organization that provides health care services to the recipient determines meets the level of care that is medically appropriate for the recipient and that is scheduled not more than 48 hours before the transportation occurs, including transportation related to:

- (i) discharge of a recipient from a health care facility;
 - (ii) receipt of urgent care; and
 - (iii) obtaining pharmacy services and prescription drugs; and
 - (B) any other transportation to or from a medically necessary, nonemergency covered health care service the commission considers appropriate to be provided by a transportation vendor, as determined by commission rule or policy.
- (3) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.
- (4) "Transportation vendor" means an entity, including a transportation network company, that contracts with a managed care organization to provide nonmedical transportation services.
- (b) The executive commissioner shall adopt rules regarding the manner in which nonmedical transportation services may be arranged and provided.
- (c) The rules must require a managed care organization to create a process to:
- (1) verify that a passenger is eligible to receive nonmedical transportation services;
 - (2) ensure that nonmedical transportation services are provided only to and from covered health care services in areas in which a transportation network company operates;

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standard passenger vehicle that is scheduled not more than 48 hours before the transportation occurs, that is provided to a recipient enrolled in a managed care plan offered by a Medicaid managed care organization, and that the organization determines meets the level of care that is medically appropriate for the recipient, including transportation related to:

- (i) discharge of a recipient from a health care facility;
 - (ii) receipt of urgent care; and
 - (iii) obtaining pharmacy services and prescription drugs; and
 - (B) any other transportation to or from a medically necessary, nonemergency covered health care service the commission considers appropriate to be provided by a transportation vendor, as determined by commission rule or policy.
- (2) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.
- (3) "Transportation vendor" means an entity, including a transportation network company, that contracts with a Medicaid managed care organization to provide nonmedical transportation services.
- (b) The executive commissioner shall adopt rules regarding the manner in which nonmedical transportation services may be arranged and provided.
- (c) The rules must require a Medicaid managed care organization to create a process to:
- (1) verify that a passenger is eligible to receive nonmedical transportation services;
 - (2) ensure that nonmedical transportation services are provided only to and from covered health care services in

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

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

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

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

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

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

(1) confirm that the operator:

(A) is at least 18 years of age;

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

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areas in which a transportation network company operates; and

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

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

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

(1) confirm that the operator:

(A) is at least 18 years of age;

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

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

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

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

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

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

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

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

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

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

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

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

(B) one or more of the following offenses:

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) one or more of the following offenses:

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

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

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(iii) driving without a valid driver's license under Section 521.025, Transportation Code; or
(iv) driving with an invalid driver's license under Section 521.457, Transportation Code;
(2) has been convicted in the preceding seven-year period of any of the following:
(A) driving while intoxicated under Section 49.04 or 49.045, Penal Code;
(B) use of a motor vehicle to commit a felony;
(C) a felony crime involving property damage;
(D) fraud;
(E) theft;
(F) an act of violence; or
(G) an act of terrorism; or
(3) is found to be registered in the national sex offender public website maintained by the United States Department of Justice or a successor agency.
(g) The commission may not require:
(1) a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services; or
(2) a managed care organization to credential a motor vehicle operator to provide nonmedical transportation services.
(h) The commission or a managed care organization that contracts with a transportation vendor may require the transportation vendor or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the United States Department of Health and Human Services.
(i) Notwithstanding any other law, a motor vehicle operator who is part of a transportation network company's network

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(iii) driving without a valid driver's license under Section 521.025, Transportation Code; or
(iv) driving with an invalid driver's license under Section 521.457, Transportation Code;
(2) has been convicted in the preceding seven-year period of any of the following:
(A) driving while intoxicated under Section 49.04 or 49.045, Penal Code;
(B) use of a motor vehicle to commit a felony;
(C) a felony crime involving property damage;
(D) fraud;
(E) theft;
(F) an act of violence; or
(G) an act of terrorism; or
(3) is found to be registered in the national sex offender public website maintained by the United States Department of Justice or a successor agency.
(g) The commission may not require:
(1) a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services; or
(2) a Medicaid managed care organization to credential a motor vehicle operator to provide nonmedical transportation services.
(h) The commission or a Medicaid managed care organization that contracts with a transportation vendor may require the transportation vendor or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the United States Department of Health and Human Services.
(i) Notwithstanding any other law, a motor vehicle operator who is part of a transportation network company's network

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and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide nonmedical transportation services. The commission and a managed care organization may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide nonmedical transportation services.

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

(See SECTION 6 below.)

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and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide nonmedical transportation services. The commission and a Medicaid managed care organization may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide nonmedical transportation services.

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

Sec. 533.002581. DELIVERY OF NONMEDICAL TRANSPORTATION SERVICES UNDER MEDICAID MANAGED CARE PROGRAM. (a) In this section, "nonmedical transportation service" and "transportation vendor" have the meanings assigned by Section 533.00258.
(b) The commission shall designate managed care service areas in which to require, beginning not later than January 1, 2020, each Medicaid managed care organization with which the commission has a contract that is anticipated to be in effect on September 1, 2020, and that operates in a designated service area to arrange for the provision of nonmedical transportation services to recipients enrolled in a managed care plan offered by the organization. The commission shall designate at least three, but not more than four, managed care service areas for purposes of this

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subsection. At least one of the designated service areas must be located in an urban service area, and at least one must be located in a rural service area. This subsection expires September 1, 2021.

(c) Beginning not later than September 1, 2020, the commission shall require each Medicaid managed care organization to arrange for the provision of nonmedical transportation services to recipients enrolled in a managed care plan offered by the organization. [FA1(3)]

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

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

(f) A Medicaid managed care organization may not require:
(1) a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services; or
(2) the credentialing of a motor vehicle operator to provide nonmedical transportation services.

(g) For purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides services under this section may use a

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wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

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

No equivalent provision.

SECTION 5. The heading to Section 533.00257, Government Code, is amended to read as follows:
Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES THROUGH MANAGED TRANSPORTATION ORGANIZATION.

SECTION 4. Section 533.00257(a), Government Code, is amended by adding Subdivision (2-a) to read as follows:
(2-a) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.

SECTION 6. Same as House version.

SECTION 5. Section 533.00257, Government Code, is amended by amending Subsections (d) and (g) and adding Subsections (k), (l), (m), and (n) to read as follows:

SECTION 7. Section 533.00257, Government Code, is amended by amending Subsections (b), (d), and (g) and adding Subsections (k), (l), (m), and (n) to read as follows:
(b) The [Subject to Subsection (i), the] commission may [shall] provide medical transportation program services on a regional basis through a managed transportation delivery

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

- (1) are considered significant traditional providers, as defined by rule by the executive commissioner;
- (2) meet the minimum quality and efficiency measures required under Subsection (g) and other requirements that may be imposed by the managed transportation organization; and
- (3) agree to accept the prevailing contract rate of the managed transportation organization.

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

(k) A managed transportation organization may subcontract with a transportation network company to provide services under this section. A rule or other requirement adopted by the executive commissioner under this section or Section 531.02414 does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of

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model using managed transportation organizations and providers, as appropriate, that:

- (1) operate under a capitated rate system;
- (2) assume financial responsibility under a full-risk model;
- (3) operate a call center;
- (4) use fixed routes when available and appropriate; and
- (5) agree to provide data to the commission if the commission determines that the data is required to receive federal matching funds.

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

- (1) are considered significant traditional providers, as defined by rule by the executive commissioner;
- (2) meet the minimum quality and efficiency measures required under Subsection (g) and other requirements that may be imposed by the managed transportation organization; and
- (3) agree to accept the prevailing contract rate of the managed transportation organization.

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

(k) A managed transportation organization may subcontract with a transportation network company to provide services under this section. A rule or other requirement adopted by the executive commissioner under this section or Section 531.02414 does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of

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the company's network. The commission or the managed transportation organization may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

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

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

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

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the company's network. The commission or the managed transportation organization may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

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

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

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

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

Sec. 533.00259. DELIVERY OF NONMEDICAL TRANSPORTATION SERVICES.

(a) In this section, "nonmedical transportation service" and "transportation vendor" have the meanings assigned by Section 531.024142.

(b) The commission shall:

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

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

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

(b-1) A managed care organization may contract with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services. If a managed care organization contracts with a third party that is not a transportation vendor to arrange for the provision of

(See Sec. 533.02581 above.)

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nonmedical transportation services, the third party shall contract with a transportation vendor to deliver the nonmedical transportation services.

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

(d) A managed care organization may not require:

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

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

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

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

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

SENATE VERSION (IE)

No equivalent provision.

CONFERENCE

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

SUBCHAPTER J. TEXAS AMBULANCE RESPONSE SAFETY NET PROGRAM

Sec. 773.301. PURPOSE. The purpose of this subchapter is to authorize the commission to establish and administer the Texas ambulance response safety net program as a self-funded ground ambulance service provider participation program for ground ambulance service providers in accordance with this subchapter.

Sec. 773.302. DEFINITIONS. In this subchapter:

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

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

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

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

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

(2) "Net patient revenue" means a ground ambulance service provider's estimated net realizable revenue from patients, third-party payors, and other entities for ground ambulance services rendered, including estimated retroactive

SENATE VERSION (IE)

No equivalent provision.

CONFERENCE

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adjustments required by reimbursement agreements with third-party payors. The term does not include:

(A) the amounts the provider reduces for payors who have a fee schedule established by federal or state statute or a contractual agreement;

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

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

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

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

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

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

(3) a participant in the state Medicaid program.

(b) This subchapter does not apply to:

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

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

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

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

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

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

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

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

(2) an amount equal to six percent of the net operating revenue of all ground ambulance service providers for the provision of emergency ground ambulance services, or an amount otherwise permitted by federal law, provided that the maximum mandatory payment for a provider in any year may not exceed the provider's net patient revenue, as reported by the provider, subject to Section 773.306(b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 773.308. TEXAS AMBULANCE RESPONSE SAFETY NET TRUST FUND. (a) The Texas ambulance response safety net trust fund is established as a trust fund to be held by the comptroller outside the state treasury and administered by the commission as trustee.

(b) The trust fund consists of:

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

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(2) the earnings of the fund.

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

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

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

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

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

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

Sec. 773.309. INVALIDITY; FEDERAL FUNDS. The commission shall stop collection of the mandatory payment and, not later than the 30th day after the date collection is stopped, return to each ground ambulance service provider, in proportion to the total amount paid by each provider compared to the total amount paid by all providers, any unspent money deposited to the credit of the trust fund, if:

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

(2) the commission determines that the imposition of the mandatory payment and the expenditure of amounts

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collected as prescribed by this subchapter will not entitle the state to receive federal matching funds under the Medicaid program or will be inconsistent with the objectives described by Section 537.002(b)(7), Government Code; or
(3) the commission determines that the amount of the mandatory payments collected would exceed the amount paid in increased Medicaid fee-for-service reimbursement rates for services provided to individuals who are dually eligible for Medicaid and Medicare.
Sec. 773.310. RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

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

Sec. 32.080. ENHANCED PAYMENT MODEL FOR CERTAIN AMBULANCE PROVIDERS. (a) The executive commissioner, in consultation with ambulance providers, by rule shall establish an enhanced payment model for reimbursing non-state operated public ambulance providers who provide ground emergency medical transportation services to recipients of medical assistance. The enhanced payment model must be implemented under the Medicaid fee-for-service delivery model through supplemental payments and the Medicaid managed care delivery model through an enhanced reimbursement or payment rate.
(b) The commission may not use general revenue to reimburse non-state operated public ambulance providers under or administer the enhanced payment model.

SENATE VERSION (IE)

No equivalent provision.

CONFERENCE

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

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

and

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

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

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

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

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

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

SECTION 10. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall establish the amount of the initial mandatory payment imposed under Subchapter J, Chapter 773, Health and Safety Code, as added by this Act, based on available net patient revenue information.

No equivalent provision.

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

No equivalent provision.

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provision, the agency affected by the provision shall request the waiver or authorization and:

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

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

No equivalent provision.

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

No equivalent provision.

SECTION 10. Notwithstanding Sections 533.002571(b) and 533.002581(c), Government Code, as added by this Act, the Health and Human Services Commission is not required to implement those subsections until September 1, 2020. [FA1(4)]

No equivalent provision.

SECTION 11. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

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

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

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SECTION 12. Same as House version.

SECTION 13. Same as House version.

CONFERENCE