

BILL ANALYSIS

C.S.S.B. 999
By: Hancock
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Surprise billing occurs when a patient is billed the difference between what an insurer paid and what a provider charged after receiving emergency care. While surprise billing is mostly outlawed in Texas, stakeholders contend that surprise billing by ground ambulances creates an undue burden on Texans that use ambulance services. C.S.S.B. 999 protects Texans from some ground ambulance balance billing by adding ground ambulance service providers to the existing surprise billing protections in the Insurance Code.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 999 amends the Insurance Code to require a health maintenance organization (HMO), insurer, or administrator of a managed care plan provided under the Texas Employees Group Benefits Act, Texas Public School Retired Employees Group Benefits Act, or Texas School Employees Uniform Group Health Coverage Act to pay for a covered health care service performed by or a covered supply related to that service provided to an enrollee, insured, or participant by a non-network or out-of-network ground ambulance service provider, as applicable, at the usual and customary rate or at an agreed rate. The bill requires a payment to be made directly to the provider not later than the 30th day after the date the HMO, insurer, or administrator receives an electronic clean claim or the 45th day after the date the HMO, insurer, or administrator receives a nonelectronic clean claim, as applicable, for those services that includes all information necessary for the HMO, insurer, or administrator to pay the claim.

C.S.S.B. 999 prohibits a non-network ground ambulance service provider or a person asserting a claim as an agent or assignee of the provider from billing an enrollee, insured, or participant receiving the health care service or supply in, and the enrollee, insured, or participant does not have financial responsibility for, an amount greater than an applicable copayment, coinsurance, and deductible under the enrollee's health care plan, insured's preferred provider benefit plan, or participant's managed care plan, as applicable, that is based on:

- the amount initially determined by the HMO, insurer, or administrator; or
- the modified amount as determined under the HMO's, insurer's, or administrator's internal appeal process.

The amount billed to the enrollee, insured, or participant may not be based on any additional amount determined to be owed to the provider under statutory provisions relating to out-of-network claim dispute resolutions. For HMO's and insurers, the bill's provisions relating to the

requirement to pay for the covered services and supplies and the prohibition against a provider billing an enrollee or insured may not be construed to require the imposition of a penalty for a violation of certain claims payment provisions or a violation of claims payment requirements, as applicable.

C.S.S.B. 999 requires an HMO, insurer, or administrator to provide notice of the ground ambulance services provider billing prohibition to an enrollee, insured, or participant and to the physician or provider in connection with a health care service or supply provided by a non-network physician or provider. The bill also requires an HMO, insurer, or administrator to provide an explanation of benefits with the notice of the ground ambulance services provider billing prohibition to a physician or provider not later than the date the HMO, insurer, or administrator makes a payment for the applicable services or supplies.

C.S.S.B. 999, for purposes of provisions relating to out-of-network claim dispute resolutions, defines "ground ambulance service provider" as a health care provider using a ground vehicle in transporting an ill or injured individual from a facility to another facility. The term includes an emergency medical services provider and a provider using emergency medical services vehicles, except the terms do not include an air ambulance. The term does not include a ground ambulance service provided by a county or municipality. The bill includes a ground ambulance service provider in the definition of "out-of-network provider" for those purposes.

C.S.S.B. 999 makes provisions relating to mandatory mediation for out-of-network facilities applicable to a ground ambulance service provider. The bill includes a health benefit claim for an out-of-network ground ambulance service among the claims for which an out-of-network provider or a health benefit plan issuer or administrator may request mediation through a portal on the Texas Department of Insurance (TDI) website.

C.S.S.B. 999 authorizes a ground ambulance service provider to elect to submit multiple claims to mediation in one proceeding if the total amount in controversy for the claims does not exceed \$5,000 and the claims are limited to the same administrator or health benefit plan issuer. The bill requires the mediation of a settlement of a health benefit claim for an out-of-network ground ambulance service to be completed not later than the 90th day after the date of the request for mediation.

C.S.S.B. 999 amends the Local Government Code to authorize a county or municipality to elect to consider a health benefit plan payment toward a claim for air or ground ambulance services provided by the county or municipality as payment in full for those services regardless of the amount the county or municipality charged for those services. The bill prohibits the county or municipality from practicing balance billing for a claim for which the county or municipality makes the election.

C.S.S.B. 999 requires TDI to conduct a study on the balance billing practices of county and municipal ground ambulance service providers, the variations in prices for those services, the proportion of ground ambulances that are in-network, trends in network inclusion, and factors contributing to the network status of ground ambulances. The bill authorizes TDI to seek the assistance of the Department of State Health Services (DSHS) in conducting the study. The bill requires TDI, not later than December 1, 2022, to provide a written report of the results of the study to the governor, lieutenant governor, speaker of the house of representatives, and members of the standing committees of the legislature with primary jurisdiction over TDI. These provisions of the bill expire September 1, 2023.

C.S.S.B. 999 establishes that the bill's provisions relating to eliminating surprise billing for certain ground ambulance services and out-of-network claim dispute resolutions apply only to a ground ambulance service provided on or after January 1, 2022.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 999 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed and substitute versions of the bill each address county and municipal authority with respect to certain medical and health care billing by ambulance service providers, the substitute includes the following provisions, which were not included in the engrossed:

- a requirement for an HMO, insurer, or administrator of a managed care plan provided under the Texas Employees Group Benefits Act, Texas Public School Retired Employees Group Benefits Act, or Texas School Employees Uniform Group Health Coverage Act to pay for a covered health care service performed by or a covered supply related to that service provided to an enrollee, insured, or participant by a non-network or out-of-network ground ambulance service provider, as applicable, at the usual and customary rate or at an agreed rate;
- a prohibition against a non-network ground ambulance service provider or a person asserting a claim as an agent or assignee of the provider billing an enrollee, insured, or participant receiving the health care service or supply an amount greater than the applicable copayment, coinsurance, and deductible;
- a requirement for an HMO, insurer, or administrator to provide notice of the ground ambulance services provider billing prohibition to an enrollee, insured, or participant and to the physician or provider in connection with a health care service or supply provided by a non-network physician or provider;
- a requirement for an HMO, insurer, or administrator to provide an explanation of benefits with the notice of the ground ambulance services provider billing prohibition to a physician or provider;
- provisions relating to mandatory mediation for out-of-network facilities and ground ambulance service providers that do the following:
 - define "ground ambulance service provider";
 - include a ground ambulance service provider in the definition of "out-of-network provider";
 - make those mandatory mediation provisions for out-of-network facilities applicable to a ground ambulance service provider;
 - provide for a request for mediation through a portal on the Texas Department of Insurance (TDI) website with respect to a health benefit claim for an out-of-network ground ambulance service;
 - authorize a ground ambulance service provider to elect to submit multiple claims to mediation based on the total amount in controversy and whether the claims are limited to the same administrator or health benefit plan issuer; and
 - require mediation of a settlement of a health benefit claim for an out-of-network ground ambulance service to be completed not later than the 90th day after the date of the request for mediation.
- a provision establishing that certain provisions of the bill, including the mandatory mediation provisions, apply only to a ground ambulance service provided on or after January 1, 2022.

With respect to the requirement for TDI to conduct a study, which was included in the engrossed, the substitute authorizes TDI to seek the assistance of DSHS in conducting the study and includes the proportion of ground ambulances that are in-network, trends in network inclusion, and factors contributing to the network status of ground ambulances among the issues TDI is required to study.