87R18910 SMT-F

By:  Frank H.B. No. 4051

Substitute the following for H.B. No. 4051:

By:  Oliverson C.S.H.B. No. 4051

A BILL TO BE ENTITLED

AN ACT

relating to the method of payment for certain health care and certain contract provisions affecting health care reimbursement rates.

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

SECTION 1.  Chapter 1204, Insurance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. DIRECT PAYMENT OF PHYSICIAN OR HEALTH CARE PROVIDER

Sec. 1204.301.  DEFINITIONS. In this subchapter:

(1)  "Enrollee" means an individual who is enrolled in a health care plan or entitled to coverage under a health benefit plan.

(2)  "Health benefit plan" means an individual, group, blanket, or franchise insurance policy, a group hospital service contract, or a group subscriber contract or evidence of coverage issued by a health maintenance organization, that provides benefits for health care services.

(3)  "Health care provider" means a person who provides health care services under a license, certificate, registration, or other similar evidence of regulation issued by this or another state of the United States.

(4)  "Health care service" means a service to diagnose, prevent, alleviate, cure, or heal a human illness or injury that is provided to a covered person by a physician or other health care provider.

(5)  "Physician" means an individual licensed to practice medicine in this or another state of the United States.

Sec. 1204.302.  APPLICABILITY TO CERTAIN PLANS. In addition to the health benefit plans described by Section 1204.301, notwithstanding any other law, this subchapter applies to:

(1)  a basic coverage plan under Chapter 1551;

(2)  a basic plan under Chapter 1575;

(3)  a primary care coverage plan under Chapter 1579; and

(4)  a plan providing basic coverage under Chapter 1601.

Sec. 1204.303.  PAYMENT IN LIEU OF CLAIM FOR BENEFITS; OTHER DIRECT PAYMENTS. (a) A physician or health care provider may not be prohibited from accepting directly from an enrollee full payment for a health care service in lieu of submitting a claim to the enrollee's health benefit plan.

(b)  Notwithstanding Section 552.003 or any other law, the charge for a health care service for which a physician or health care provider accepts a payment as described by Subsection (a) or from a patient without a health benefit plan may not exceed the lowest contract rate for the health care service allowable under any health benefit plan with respect to which the physician or health care provider is a contracted, preferred, or participating provider.

SECTION 2.  Section 1458.001, Insurance Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a)  "Most favored nation clause" means a provision in a provider network contract that:

(A)  prohibits or grants an option to prohibit:

(i)  a provider from contracting with another contracting entity to provide health care services at a lower rate; or

(ii)  a contracting entity from contracting with another provider to provide health care services at a higher rate;

(B)  requires or grants an option to require:

(i)  a provider to accept a lower rate for health care services if the provider agrees with another contracting entity to accept a lower rate for the services; or

(ii)  a contracting entity to pay a higher rate for health care services if the entity agrees with another provider to pay a higher rate for the services;

(C)  requires or grants an option to require termination or renegotiation of an existing provider network contract if:

(i)  a provider agrees with another contracting entity to accept a lower rate for providing health care services; or

(ii)  a contracting entity agrees with a provider to pay a higher rate for health care services; or

(D)  requires:

(i)  a provider to disclose the provider's contractual reimbursement rates with other contracting entities; or

(ii)  a contracting entity to disclose the contracting entity's contractual reimbursement rates with other providers.

SECTION 3.  Section 1458.101, Insurance Code, is amended by adding Subsection (g) to read as follows:

(g)  A contracting entity may not:

(1)  offer to a provider a provider network contract that includes a most favored nation clause;

(2)  enter into a provider network contract that includes a most favored nation clause; or

(3)  amend or renew an existing provider network contract previously entered into with a provider so that the contract as amended or renewed adds or retains a most favored nation clause.

SECTION 4.  This Act takes effect September 1, 2021.