

By: Oliverson

H.B. No. 1934

Substitute the following for H.B. No. 1934:

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C.S.H.B. No. 1934

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requirements for overpayment recovery and third party
3 access to provider networks for certain insurance policies and
4 benefit plans that provide dental benefits.

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

6 SECTION 1. Section [1451.206](#), Insurance Code, is amended by
7 adding Subsections (d) and (e) to read as follows:

8 (d) An employee benefit plan or health insurance policy
9 provider or issuer may not recover an overpayment made to a dentist
10 unless:

11 (1) not later than the 180th day after the date the
12 dentist receives the payment, the provider or issuer provides
13 written notice of the overpayment to the dentist that includes the
14 basis and specific reasons for the request for recovery of funds;
15 and

16 (2) the dentist:

17 (A) fails to provide a written objection to the
18 request for recovery of funds and does not make arrangements for
19 repayment of the requested funds on or before the 45th day after the
20 date the dentist receives the notice; or

21 (B) objects to the request in accordance with the
22 procedure described by Subsection (e) and exhausts all rights of
23 appeal.

24 (e) An employee benefit plan or health insurance policy

1 provider or issuer shall provide a dentist with the opportunity to
2 challenge an overpayment recovery request and establish written
3 policies and procedures for a dentist to object to an overpayment
4 recovery request. The procedures must allow the dentist to access
5 the claims information in dispute.

6 SECTION 2. Subchapter E, Chapter 1451, Insurance Code, is
7 amended by adding Section 1451.209 to read as follows:

8 Sec. 1451.209. REQUIREMENTS FOR THIRD PARTY ACCESS TO
9 PROVIDER NETWORKS. (a) At the time a provider network contract is
10 entered into or when material modifications are made to the
11 contract relevant to granting a third party access to the contract,
12 an employee benefit plan or health insurance policy provider or
13 issuer shall allow any dentist that is part of the provider network
14 to elect not to participate in the third party access to the
15 contract and to elect not to enter into a contract directly with the
16 third party that will obtain access to the provider network. This
17 subsection does not permit the plan or policy provider or issuer to
18 cancel or otherwise end a contractual relationship with a dentist
19 if the dentist elects to not participate in or agree to third party
20 access to the provider network contract.

21 (b) An employee benefit plan or health insurance policy
22 provider or issuer that enters into a provider network contract
23 with a dentist, or a contracting entity that has leased or acquired
24 the provider network contract, may grant a third party access to the
25 provider network contract or to a dentist's dental care services or
26 contractual discounts provided under the contract only if:

27 (1) the provider network contract or each employee

1 benefit plan or health insurance policy for which the provider
2 network contract was entered into, leased, or acquired
3 conspicuously states that the provider or issuer or contracting
4 entity may enter into an agreement with a third party that allows
5 the third party to obtain the provider's, issuer's, or contracting
6 entity's rights and responsibilities as if the third party were the
7 provider, issuer, or contracting entity;

8 (2) if the contracting entity is an employee benefit
9 plan or health insurance policy provider or issuer, the entity's
10 plan or policy for which the provider network contract is leased or
11 acquired conspicuously states, in addition to the language required
12 by Subdivision (1), that the dentist may elect not to participate in
13 third party access to the provider network contract:

14 (A) at the time the provider network contract is
15 entered into; or

16 (B) when there are material modifications to the
17 provider network contract relevant to granting a third party access
18 to the provider network contract;

19 (3) the third party accessing the provider network
20 contract agrees to comply with all of the original contract's
21 terms, including the contracted fee schedule and obligations
22 concerning patient steerage;

23 (4) the provider, issuer, or other contracting entity
24 provides in writing to the dentist the names of all third parties
25 with access to the provider network in existence as of the date the
26 contract is entered into;

27 (5) the provider, issuer, or other contracting entity

1 identifies all current third parties with access to the provider
2 network on its Internet website with a list updated at least once
3 every 90 days;

4 (6) the provider, issuer, or other contracting entity
5 requires a third party with access to the provider network to
6 identify the source of any discount on all remittance advices or
7 explanations of payment under which a discount is taken, provided
8 that this subsection does not apply to electronic transactions
9 mandated by the Health Insurance Portability and Accountability Act
10 of 1996 (Pub. L. No. 104-191);

11 (7) the provider, issuer, or other contracting entity
12 provides written or electronic notice to network dentists that a
13 third party will lease, acquire, or obtain access to the provider
14 network at least 30 days before the lease or access takes effect;

15 (8) the provider, issuer, or other contracting entity
16 provides written or electronic notice to network dentists of the
17 termination of the provider network contract at least 30 days
18 before the termination date;

19 (9) a third party's right to a dentist's discounted
20 rate ceases as of the termination date of the provider network
21 contract; and

22 (10) the provider, issuer, or other contracting entity
23 makes available a copy of the provider network contract relied on in
24 the adjudication of a claim to a network dentist not later than the
25 30th day after the date the dentist requests a copy of that
26 contract.

27 (c) Subsections (b)(7) and (8) do not apply to a contracting

1 entity that only organizes and leases networks but does not engage
2 in the business of insurance.

3 (d) A person may not bind or require a dentist to perform
4 dental care services under a provider network contract that has
5 been sold, leased, or assigned to a third party or for which a third
6 party has otherwise obtained provider network access in violation
7 of this section.

8 (e) This section does not apply:

9 (1) if access to a provider network contract is
10 granted to:

11 (A) a third party operating in accordance with
12 the same brand licensee program as the employee benefit plan
13 provider, health insurance policy issuer, or other contracting
14 entity selling or leasing the provider network contract, provided
15 that the third party accessing the provider network contract agrees
16 to comply with all of the original contract's terms, including the
17 contracted fee schedule and obligations concerning patient
18 steerage; or

19 (B) an entity that is an affiliate of the
20 employee benefit plan provider, health insurance policy issuer, or
21 other contracting entity selling or leasing the provider network
22 contract, provided that:

23 (i) the provider, issuer, or entity
24 publicly discloses the names of the affiliates on its Internet
25 website; and

26 (ii) the affiliate accessing the provider
27 network contract agrees to comply with all of the original

1 contract's terms, including the contracted fee schedule and
2 obligations concerning patient steerage;

3 (2) to the child health plan program under Chapter 62,
4 Health and Safety Code, or the health benefits plan for children
5 under Chapter 63, Health and Safety Code; or

6 (3) to a Medicaid managed care program operated under
7 Chapter 533, Government Code, or a Medicaid program operated under
8 Chapter 32, Human Resources Code.

9 SECTION 3. Sections 1451.206(d) and (e) and 1451.209,
10 Insurance Code, as added by this Act, apply only to an employee
11 benefit plan for a plan year that commences on or after January 1,
12 2022, or a health insurance policy delivered, issued for delivery,
13 or renewed on or after January 1, 2022, and any provider network
14 contract entered into on or after the effective date of this Act in
15 connection with one of those plans and policies.

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