

By: Oliverson

H.B. No. 1934

A BILL TO BE ENTITLED

AN ACT

1
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 90th 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 establish written policies and procedures
2 for a dentist to object to an overpayment recovery request and
3 provide a copy of the policies and procedures to the dentist with
4 each overpayment recovery request. The procedures must allow the
5 dentist to access 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, sold, leased, or renewed or when material
11 modifications are made to the contract relevant to granting a third
12 party access to the contract, an employee benefit plan or health
13 insurance policy provider or issuer shall allow any dentist that is
14 part of the provider network to elect not to participate in the
15 third party access to the contract and to elect not to enter into a
16 contract directly with the third party that will obtain access to
17 the provider network. The provider or issuer may not require that a
18 dentist terminate or modify the dentist's preexisting contractual
19 relationship with the provider or issuer based on the dentist's
20 election to not participate in or agree to third party access to the
21 contract network.

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

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

9 (2) if the contracting entity is an employee benefit
10 plan or health insurance policy provider or issuer, the entity's
11 plan or policy for which the provider network contract is leased or
12 acquired conspicuously states, in addition to the language required
13 by Subdivision (1), that the dentist may elect not to participate in
14 third party access to the provider network contract at the time the
15 provider network contract is entered into, sold, leased, or renewed
16 or when there are material modifications to the provider network
17 contract relevant to granting a third party access to the provider
18 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, sold, leased, or renewed;

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 notice to network dentists that a third party will
13 lease, acquire, or obtain access to the provider network at least 30
14 days before the lease, acquisition, or access takes effect;

15 (8) the provider, issuer, or other contracting entity
16 provides written notice to network dentists of the termination of
17 the provider network contract at least 30 days before the
18 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) A person may not bind or require a dentist to perform

1 dental care services under a provider network contract that has
2 been sold, leased, or assigned to a third party or for which a third
3 party has otherwise obtained provider network access in violation
4 of this section.

5 (d) This section does not apply:

6 (1) if access to a provider network contract is
7 granted to:

8 (A) a third party operating in accordance with
9 the same brand licensee program as the employee benefit plan
10 provider, health insurance policy issuer, or other contracting
11 entity selling or leasing the provider network contract; or

12 (B) an entity that is an affiliate of the
13 employee benefit plan provider, health insurance policy issuer, or
14 other contracting entity selling or leasing the provider network
15 contract, provided that the provider, issuer, or entity publicly
16 discloses the names of the affiliates on its Internet website;

17 (2) to the child health plan program under Chapter 62,
18 Health and Safety Code, or the health benefits plan for children
19 under Chapter 63, Health and Safety Code; or

20 (3) to a Medicaid managed care program operated under
21 Chapter 533, Government Code, or a Medicaid program operated under
22 Chapter 32, Human Resources Code.

23 SECTION 3. Sections 1451.206(d) and (e) and 1451.209,
24 Insurance Code, as added by this Act, apply only to an employee
25 benefit plan for a plan year that commences on or after January 1,
26 2022, or a health insurance policy delivered, issued for delivery,
27 or renewed on or after January 1, 2022, and any provider network

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1 contract entered into or renewed on or after the effective date of
2 this Act in connection with one of those plans and policies.

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