

By: Hancock, et al.
(Oliverson)

S.B. No. 999

Substitute the following for S.B. No. 999:

By: Oliverson

C.S.S.B. No. 999

A BILL TO BE ENTITLED

1 AN ACT
2 relating to consumer protections against and county and municipal
3 authority regarding certain medical and health care billing by
4 ambulance service providers.

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

6 ARTICLE 1. ELIMINATING SURPRISE BILLING FOR CERTAIN GROUND
7 AMBULANCE SERVICES UNDER CERTAIN HEALTH BENEFIT PLANS

8 SECTION 1.01. Section 1271.008, Insurance Code, is amended
9 to read as follows:

10 Sec. 1271.008. BALANCE BILLING PROHIBITION NOTICE. (a) A
11 health maintenance organization shall provide written notice in
12 accordance with this section in an explanation of benefits provided
13 to the enrollee and the physician or provider in connection with a
14 health care service or supply provided by a non-network physician
15 or provider. The notice must include:

16 (1) a statement of the billing prohibition under
17 Section 1271.155, 1271.157, [~~or~~] 1271.158, or 1271.159, as
18 applicable;

19 (2) the total amount the physician or provider may
20 bill the enrollee under the enrollee's health benefit plan and an
21 itemization of copayments, coinsurance, deductibles, and other
22 amounts included in that total; and

23 (3) for an explanation of benefits provided to the
24 physician or provider, information required by commissioner rule

1 advising the physician or provider of the availability of mediation
2 or arbitration, as applicable, under Chapter 1467.

3 (b) A health maintenance organization shall provide the
4 explanation of benefits with the notice required by this section to
5 a physician or health care provider not later than the date the
6 health maintenance organization makes a payment under Section
7 1271.155, 1271.157, ~~[or]~~ 1271.158, or 1271.159, as applicable.

8 SECTION 1.02. Subchapter D, Chapter 1271, Insurance Code,
9 is amended by adding Section 1271.159 to read as follows:

10 Sec. 1271.159. NON-NETWORK GROUND AMBULANCE SERVICE
11 PROVIDER. (a) In this section, "ground ambulance service
12 provider" has the meaning assigned by Section 1467.001.

13 (b) A health maintenance organization shall pay for a
14 covered health care service performed by or a covered supply
15 related to that service provided to an enrollee by a non-network
16 ground ambulance service provider at the usual and customary rate
17 or at an agreed rate. The health maintenance organization shall
18 make a payment required by this subsection directly to the provider
19 not later than, as applicable:

20 (1) the 30th day after the date the health maintenance
21 organization receives an electronic clean claim as defined by
22 Section 843.336 for those services that includes all information
23 necessary for the health maintenance organization to pay the claim;
24 or

25 (2) the 45th day after the date the health maintenance
26 organization receives a nonelectronic clean claim as defined by
27 Section 843.336 for those services that includes all information

1 necessary for the health maintenance organization to pay the claim.

2 (c) A non-network ground ambulance service provider or a
3 person asserting a claim as an agent or assignee of the provider may
4 not bill an enrollee receiving a health care service or supply
5 described by Subsection (b) in, and the enrollee does not have
6 financial responsibility for, an amount greater than an applicable
7 copayment, coinsurance, and deductible under the enrollee's health
8 care plan that:

9 (1) is based on:

10 (A) the amount initially determined payable by
11 the health maintenance organization; or

12 (B) if applicable, a modified amount as
13 determined under the health maintenance organization's internal
14 appeal process; and

15 (2) is not based on any additional amount determined
16 to be owed to the provider under Chapter 1467.

17 (d) This section may not be construed to require the
18 imposition of a penalty under Section 843.342.

19 SECTION 1.03. Section 1301.0045(b), Insurance Code, is
20 amended to read as follows:

21 (b) Except as provided by Sections 1301.0052, 1301.0053,
22 1301.155, 1301.164, ~~and~~ 1301.165, and 1301.166, this chapter may
23 not be construed to require an exclusive provider benefit plan to
24 compensate a nonpreferred provider for services provided to an
25 insured.

26 SECTION 1.04. Section 1301.010, Insurance Code, is amended
27 to read as follows:

1 Sec. 1301.010. BALANCE BILLING PROHIBITION NOTICE. (a) An
2 insurer shall provide written notice in accordance with this
3 section in an explanation of benefits provided to the insured and
4 the physician or health care provider in connection with a medical
5 care or health care service or supply provided by an out-of-network
6 provider. The notice must include:

7 (1) a statement of the billing prohibition under
8 Section 1301.0053, 1301.155, 1301.164, [~~or~~] 1301.165, or 1301.166,
9 as applicable;

10 (2) the total amount the physician or provider may
11 bill the insured under the insured's preferred provider benefit
12 plan and an itemization of copayments, coinsurance, deductibles,
13 and other amounts included in that total; and

14 (3) for an explanation of benefits provided to the
15 physician or provider, information required by commissioner rule
16 advising the physician or provider of the availability of mediation
17 or arbitration, as applicable, under Chapter 1467.

18 (b) An insurer shall provide the explanation of benefits
19 with the notice required by this section to a physician or health
20 care provider not later than the date the insurer makes a payment
21 under Section 1301.0053, 1301.155, 1301.164, [~~or~~] 1301.165, or
22 1301.166, as applicable.

23 SECTION 1.05. Subchapter D, Chapter 1301, Insurance Code,
24 is amended by adding Section 1301.166 to read as follows:

25 Sec. 1301.166. OUT-OF-NETWORK GROUND AMBULANCE SERVICE
26 PROVIDER. (a) In this section, "ground ambulance service
27 provider" has the meaning assigned by Section 1467.001.

1 (b) An insurer shall pay for a covered medical care or
2 health care service performed for or a covered supply related to
3 that service provided to an insured by an out-of-network provider
4 who is a ground ambulance service provider at the usual and
5 customary rate or at an agreed rate. The insurer shall make a
6 payment required by this subsection directly to the provider not
7 later than, as applicable:

8 (1) the 30th day after the date the insurer receives an
9 electronic clean claim as defined by Section 1301.101 for those
10 services that includes all information necessary for the insurer to
11 pay the claim; or

12 (2) the 45th day after the date the insurer receives a
13 nonelectronic clean claim as defined by Section 1301.101 for those
14 services that includes all information necessary for the insurer to
15 pay the claim.

16 (c) An out-of-network provider who is a ground ambulance
17 service provider or a person asserting a claim as an agent or
18 assignee of the provider may not bill an insured receiving a medical
19 care or health care service or supply described by Subsection (b)
20 in, and the insured does not have financial responsibility for, an
21 amount greater than an applicable copayment, coinsurance, and
22 deductible under the insured's preferred provider benefit plan
23 that:

24 (1) is based on:

25 (A) the amount initially determined payable by
26 the insurer; or

27 (B) if applicable, the modified amount as

1 determined under the insurer's internal appeal process; and

2 (2) is not based on any additional amount determined
3 to be owed to the provider under Chapter 1467.

4 (d) This section may not be construed to require the
5 imposition of a penalty under Section 1301.137.

6 SECTION 1.06. Section 1551.015, Insurance Code, is amended
7 to read as follows:

8 Sec. 1551.015. BALANCE BILLING PROHIBITION NOTICE. (a)

9 The administrator of a managed care plan provided under the group
10 benefits program shall provide written notice in accordance with
11 this section in an explanation of benefits provided to the
12 participant and the physician or health care provider in connection
13 with a health care or medical service or supply provided by an
14 out-of-network provider. The notice must include:

15 (1) a statement of the billing prohibition under
16 Section 1551.228, 1551.229, [~~or~~] 1551.230, or 1551.231, as
17 applicable;

18 (2) the total amount the physician or provider may
19 bill the participant under the participant's managed care plan and
20 an itemization of copayments, coinsurance, deductibles, and other
21 amounts included in that total; and

22 (3) for an explanation of benefits provided to the
23 physician or provider, information required by commissioner rule
24 advising the physician or provider of the availability of mediation
25 or arbitration, as applicable, under Chapter 1467.

26 (b) The administrator shall provide the explanation of
27 benefits with the notice required by this section to a physician or

1 health care provider not later than the date the administrator
2 makes a payment under Section 1551.228, 1551.229, [~~or~~] 1551.230, or
3 1551.231, as applicable.

4 SECTION 1.07. Subchapter E, Chapter 1551, Insurance Code,
5 is amended by adding Section 1551.231 to read as follows:

6 Sec. 1551.231. OUT-OF-NETWORK GROUND AMBULANCE SERVICE
7 PROVIDER PAYMENTS. (a) In this section, "ground ambulance service
8 provider" has the meaning assigned by Section 1467.001.

9 (b) The administrator of a managed care plan provided under
10 the group benefits program shall pay for a covered health care or
11 medical service performed for or a covered supply related to that
12 service provided to a participant by an out-of-network provider who
13 is a ground ambulance service provider at the usual and customary
14 rate or at an agreed rate. The administrator shall make a payment
15 required by this subsection directly to the provider not later
16 than, as applicable:

17 (1) the 30th day after the date the administrator
18 receives an electronic claim for those services that includes all
19 information necessary for the administrator to pay the claim; or

20 (2) the 45th day after the date the administrator
21 receives a nonelectronic claim for those services that includes all
22 information necessary for the administrator to pay the claim.

23 (c) An out-of-network provider who is a ground ambulance
24 service provider or a person asserting a claim as an agent or
25 assignee of the provider may not bill a participant receiving a
26 health care or medical service or supply described by Subsection
27 (b) in, and the participant does not have financial responsibility

1 for, an amount greater than an applicable copayment, coinsurance,
2 and deductible under the participant's managed care plan that:

3 (1) is based on:

4 (A) the amount initially determined payable by
5 the administrator; or

6 (B) if applicable, the modified amount as
7 determined under the administrator's internal appeal process; and

8 (2) is not based on any additional amount determined
9 to be owed to the provider under Chapter 1467.

10 SECTION 1.08. Section 1575.009, Insurance Code, is amended
11 to read as follows:

12 Sec. 1575.009. BALANCE BILLING PROHIBITION NOTICE. (a)
13 The administrator of a managed care plan provided under the group
14 program shall provide written notice in accordance with this
15 section in an explanation of benefits provided to the enrollee and
16 the physician or health care provider in connection with a health
17 care or medical service or supply provided by an out-of-network
18 provider. The notice must include:

19 (1) a statement of the billing prohibition under
20 Section 1575.171, 1575.172, ~~[or]~~ 1575.173, or 1575.174, as
21 applicable;

22 (2) the total amount the physician or provider may
23 bill the enrollee under the enrollee's managed care plan and an
24 itemization of copayments, coinsurance, deductibles, and other
25 amounts included in that total; and

26 (3) for an explanation of benefits provided to the
27 physician or provider, information required by commissioner rule

1 advising the physician or provider of the availability of mediation
2 or arbitration, as applicable, under Chapter 1467.

3 (b) The administrator shall provide the explanation of
4 benefits with the notice required by this section to a physician or
5 health care provider not later than the date the administrator
6 makes a payment under Section 1575.171, 1575.172, [~~or~~] 1575.173, or
7 1575.174, as applicable.

8 SECTION 1.09. Subchapter D, Chapter 1575, Insurance Code,
9 is amended by adding Section 1575.174 to read as follows:

10 Sec. 1575.174. OUT-OF-NETWORK GROUND AMBULANCE SERVICE
11 PROVIDER PAYMENTS. (a) In this section, "ground ambulance service
12 provider" has the meaning assigned by Section 1467.001.

13 (b) The administrator of a managed care plan provided under
14 the group program shall pay for a covered health care or medical
15 service performed for or a covered supply related to that service
16 provided to an enrollee by an out-of-network provider who is a
17 ground ambulance service provider at the usual and customary rate
18 or at an agreed rate. The administrator shall make a payment
19 required by this subsection directly to the provider not later
20 than, as applicable:

21 (1) the 30th day after the date the administrator
22 receives an electronic claim for those services that includes all
23 information necessary for the administrator to pay the claim; or

24 (2) the 45th day after the date the administrator
25 receives a nonelectronic claim for those services that includes all
26 information necessary for the administrator to pay the claim.

27 (c) An out-of-network provider who is a ground ambulance

1 service provider or a person asserting a claim as an agent or
2 assignee of the provider may not bill an enrollee receiving a health
3 care or medical service or supply described by Subsection (b) in,
4 and the enrollee does not have financial responsibility for, an
5 amount greater than an applicable copayment, coinsurance, and
6 deductible under the enrollee's managed care plan that:

7 (1) is based on:

8 (A) the amount initially determined payable by
9 the administrator; or

10 (B) if applicable, the modified amount as
11 determined under the administrator's internal appeal process; and

12 (2) is not based on any additional amount determined
13 to be owed to the provider under Chapter 1467.

14 SECTION 1.10. Section 1579.009, Insurance Code, is amended
15 to read as follows:

16 Sec. 1579.009. BALANCE BILLING PROHIBITION NOTICE. (a)
17 The administrator of a managed care plan provided under this
18 chapter shall provide written notice in accordance with this
19 section in an explanation of benefits provided to the enrollee and
20 the physician or health care provider in connection with a health
21 care or medical service or supply provided by an out-of-network
22 provider. The notice must include:

23 (1) a statement of the billing prohibition under
24 Section 1579.109, 1579.110, ~~[or]~~ 1579.111, or 1579.112, as
25 applicable;

26 (2) the total amount the physician or provider may
27 bill the enrollee under the enrollee's managed care plan and an

1 itemization of copayments, coinsurance, deductibles, and other
2 amounts included in that total; and

3 (3) for an explanation of benefits provided to the
4 physician or provider, information required by commissioner rule
5 advising the physician or provider of the availability of mediation
6 or arbitration, as applicable, under Chapter 1467.

7 (b) The administrator shall provide the explanation of
8 benefits with the notice required by this section to a physician or
9 health care provider not later than the date the administrator
10 makes a payment under Section 1579.109, 1579.110, ~~or~~ 1579.111, or
11 1579.112, as applicable.

12 SECTION 1.11. Subchapter C, Chapter 1579, Insurance Code,
13 is amended by adding Section 1579.112 to read as follows:

14 Sec. 1579.112. OUT-OF-NETWORK GROUND AMBULANCE SERVICE
15 PROVIDER PAYMENTS. (a) In this section, "ground ambulance service
16 provider" has the meaning assigned by Section 1467.001.

17 (b) The administrator of a managed care plan provided under
18 this chapter shall pay for a covered health care or medical service
19 performed for or a covered supply related to that service provided
20 to an enrollee by an out-of-network provider who is a ground
21 ambulance service provider at the usual and customary rate or at an
22 agreed rate. The administrator shall make a payment required by
23 this subsection directly to the provider not later than, as
24 applicable:

25 (1) the 30th day after the date the administrator
26 receives an electronic claim for those services that includes all
27 information necessary for the administrator to pay the claim; or

1 (2) the 45th day after the date the administrator
2 receives a nonelectronic claim for those services that includes all
3 information necessary for the administrator to pay the claim.

4 (c) An out-of-network provider who is a ground ambulance
5 service provider or a person asserting a claim as an agent or
6 assignee of the provider may not bill an enrollee receiving a health
7 care or medical service or supply described by Subsection (b) in,
8 and the enrollee does not have financial responsibility for, an
9 amount greater than an applicable copayment, coinsurance, and
10 deductible under the enrollee's managed care plan that:

11 (1) is based on:

12 (A) the amount initially determined payable by
13 the administrator; or

14 (B) if applicable, a modified amount as
15 determined under the administrator's internal appeal process; and

16 (2) is not based on any additional amount determined
17 to be owed to the provider under Chapter 1467.

18 ARTICLE 2. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION

19 SECTION 2.01. Section 1467.001, Insurance Code, is amended
20 by adding Subdivision (3-b) and amending Subdivisions (4) and (6-a)
21 to read as follows:

22 (3-b) [~~(4)~~] "Facility-based provider" means a
23 physician, health care practitioner, or other health care provider
24 who provides health care or medical services to patients of a
25 facility.

26 (4) "Ground ambulance service provider" means a health
27 care provider using a ground vehicle in transporting an ill or

1 injured individual from a facility to another facility. The term
2 includes an emergency medical services provider and a provider
3 using emergency medical services vehicles, as those terms are
4 defined by Section 773.003, Health and Safety Code, except the
5 terms do not include an air ambulance. The term does not include a
6 ground ambulance service provided by a county or municipality.

7 (6-a) "Out-of-network provider" means a diagnostic
8 imaging provider, emergency care provider, facility-based
9 provider, ~~or~~ laboratory service provider, or ground ambulance
10 service provider that is not a participating provider for a health
11 benefit plan.

12 SECTION 2.02. The heading to Subchapter B, Chapter 1467,
13 Insurance Code, is amended to read as follows:

14 SUBCHAPTER B. MANDATORY MEDIATION FOR OUT-OF-NETWORK FACILITIES
15 AND GROUND AMBULANCE SERVICE PROVIDERS

16 SECTION 2.03. Section 1467.050(a), Insurance Code, is
17 amended to read as follows:

18 (a) This subchapter applies only with respect to a health
19 benefit claim submitted by an out-of-network provider that is a
20 facility or ground ambulance service provider.

21 SECTION 2.04. Section 1467.051(a), Insurance Code, is
22 amended to read as follows:

23 (a) An out-of-network provider or a health benefit plan
24 issuer or administrator may request mediation of a settlement of an
25 out-of-network health benefit claim through a portal on the
26 department's Internet website if:

27 (1) there is an amount billed by the provider and

1 unpaid by the issuer or administrator after copayments,
2 deductibles, and coinsurance for which an enrollee may not be
3 billed; and

4 (2) the health benefit claim is for:

5 (A) emergency care;

6 (B) an out-of-network laboratory service; ~~[or]~~

7 (C) an out-of-network diagnostic imaging
8 service; or

9 (D) an out-of-network ground ambulance service.

10 SECTION 2.05. Subchapter B, Chapter 1467, Insurance Code,
11 is amended by adding Section 1467.0555 to read as follows:

12 Sec. 1467.0555. MEDIATION INVOLVING GROUND AMBULANCE
13 SERVICE PROVIDER. (a) A ground ambulance service provider may
14 elect to submit multiple claims to mediation in one proceeding if:

15 (1) the total amount in controversy for the claims
16 does not exceed \$5,000; and

17 (2) the claims are limited to the same administrator
18 or health benefit plan issuer.

19 (b) A mediation of a settlement of a health benefit claim
20 for an out-of-network ground ambulance service must be completed
21 not later than the 90th day after the date of the request for
22 mediation.

23 ARTICLE 3. BALANCE BILLING FOR COUNTY AMBULANCE SERVICES

24 SECTION 3.01. Chapter 140, Local Government Code, is
25 amended by adding Section 140.013 to read as follows:

26 Sec. 140.013. BALANCE BILLING FOR COUNTY AND MUNICIPAL
27 AMBULANCE SERVICES. (a) "Balance billing" means the practice of

1 charging an enrollee in a health benefit plan to recover from the
2 enrollee the balance of a health care provider's fee for a service
3 received by the enrollee from the health care provider that is not
4 fully reimbursed by the enrollee's health benefit plan.

5 (b) A county or municipality may elect to consider a health
6 benefit plan payment toward a claim for air or ground ambulance
7 services provided by the county or municipality as payment in full
8 for those services regardless of the amount the county or
9 municipality charged for those services.

10 (c) A county or municipality may not practice balance
11 billing for a claim for which the county or municipality makes an
12 election under Subsection (b).

13 ARTICLE 4. STUDY

14 SECTION 4.01. (a) In this section, "department" means the
15 Texas Department of Insurance.

16 (b) The department shall conduct a study on the balance
17 billing practices of county and municipal ground ambulance service
18 providers, the variations in prices for county and municipal ground
19 ambulance services, the proportion of ground ambulances that are
20 in-network, trends in network inclusion, and factors contributing
21 to the network status of ground ambulances. The department may seek
22 the assistance of the Department of State Health Services in
23 conducting the study.

24 (c) Not later than December 1, 2022, the department shall
25 provide a written report of the results of the study conducted under
26 Subsection (b) of this section to the governor, lieutenant
27 governor, speaker of the house of representatives, and members of

1 the standing committees of the legislature with primary
2 jurisdiction over the department.

3 (d) This section expires September 1, 2023.

4 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

5 SECTION 5.01. The changes in law made by Articles 1 and 2 of
6 this Act apply only to a ground ambulance service provided on or
7 after January 1, 2022. A ground ambulance service provided before
8 January 1, 2022, is governed by the law in effect immediately before
9 the effective date of this Act, and that law is continued in effect
10 for that purpose.

11 SECTION 5.02. This Act takes effect September 1, 2021.