BILL ANALYSIS

C.S.H.B. 1527
By: Oliverson
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Dentists across Texas have raised concerns that state law governing dental insurance is inadequate and lacks clarity with respect to the recovery of overpayments, clauses that disallow dentists to bill for services, and third party access to provider network contracts with dentists. C.S.H.B. 1527 seeks to address these concerns and promote fairness and transparency by limiting the circumstances for overpayment recovery, prohibiting disallowable clauses in contracts with dentists, and establishing clear requirements for third party access.

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.H.B. 1527 amends the Insurance Code to establish requirements for certain employee benefit plans and health insurance policies that provide dental benefits regarding overpayment recovery and third party access to provider networks and to prohibit the inclusion of certain provisions in contracts with dentists for such plans and policies.

Overpayment Recovery

C.S.H.B. 1527 limits the circumstances under which an applicable employee benefit plan or health insurance policy provider or issuer may recover an overpayment made to a dentist to those in which both:

- the provider or issuer provides written notice of the overpayment to the dentist, not later than the 180th day after the date the dentist receives the payment, that includes the basis and specific reasons for the request for recovery of funds; and
- the dentist either:
    - fails to provide a written objection to the request and does not make arrangements for repayment of the requested funds on or before the 45th day after the date the dentist receives the notice; or
    - objects to the request in accordance with the prescribed procedure and exhausts all rights of appeal.

The bill requires each such provider or issuer to provide a dentist with the opportunity to challenge an overpayment recovery request and establish written policies and procedures for a dentist to object. Those procedures must allow the dentist to access the claims information in dispute.

Prohibited Contract Provisions

C.S.H.B. 1527 prohibits a contract between a dentist and an applicable employee benefit plan or health insurance policy provider or issuer from including a provision that does both of the following:

- allows the provider or issuer to disallow a service, resulting in denial of payment to the dentist for service that ordinarily would have been covered; and
- prohibits the dentist from billing for and collecting from the patient the amount owed for the service if there is a dental necessity for that service.

Third Party Access to Provider Networks

C.S.H.B. 1527 requires an applicable employee benefit plan or health insurance policy provider or issuer, at the time a provider network contract is entered into or when material modifications are made to the contract relevant to granting a third party access to the contract, to allow any dentist that is part of the provider network to elect not to participate in the third party access to the contract and to elect not to enter into a contract directly with the third party that will obtain access to that network. This requirement does not permit the provider or issuer to cancel or otherwise end a contractual relationship with a dentist if the dentist elects to not participate in or agree to third party access to the provider network contract.

C.S.H.B. 1527 authorizes an applicable employee benefit plan or health insurance policy provider or issuer that enters into a provider network contract with a dentist, or a contracting entity that has leased or acquired the contract, to grant a third party access to the contract or to a dentist's dental care services or contractual discounts provided under the contract only if the following conditions are satisfied:

- the contract or each plan or policy for which the contract was entered into, leased, or acquired includes certain disclosure language relating to the possibility of third party agreements;
- if applicable, the plan or policy for which the contract is leased or acquired provides certain notice of a dentist's right to elect not to participate in third party access;
- the third party accessing the contract agrees to comply with all of the original contract's terms;
- a third party's right to a dentist's discounted rate ceases as of the contract's termination date; and
- the provider, issuer, or other contracting entity does the following:
    - complies with certain requirements to identify third parties with access to the provider network both in writing to the dentists and in a list published online;
    - requires a third party with access to the provider network to identify the source of any discount on all remittance advices or explanations of payment under which a discount is taken, except with respect to HIPAA-mandated electronic transactions;
    - provides network dentists with certain advance notice of a third party leasing, acquiring, or obtaining access to the provider network and certain advance notice of the contract's termination; and
    - makes a copy of the contract relied on in the adjudication of a claim available to a requesting network dentist within a specified time frame.

The advance notice requirements do not apply to a contracting entity that only organizes and leases networks but does not engage in the business of insurance. The bill prohibits a person from binding or requiring a dentist to perform dental care services under a contract that has been sold, leased, or assigned to a third party or for which a third party has otherwise obtained provider network access in violation of applicable bill provisions.

The bill's provisions relating to third party access to provider networks do not apply to CHIP, Medicaid, or a Medicaid managed care program and do not apply if access is granted to the following:

- a third party operating in accordance with the same brand licensee program as the provider, issuer, or contracting entity selling or leasing the contract, provided that the third party accessing the contract agrees to comply with all of the original contract's terms; or
- an entity that is an affiliate of the provider, issuer, or contracting entity selling or leasing the contract, provided that the provider, issuer, or entity publicly discloses the names of the affiliates on its website and the affiliate accessing the contract agrees to comply with all of the original contract's terms.

Applicability

C.S.H.B. 1527 applies only to the following:

- an employee benefit plan for a plan year that commences on or after January 1, 2024;
- a health insurance policy delivered, issued for delivery, or renewed on or after that date; and
- any provider network contract entered into on or after the bill's effective date in connection with one of those plans or policies.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1527 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The introduced prohibited a contract between a dentist and an applicable employee benefit plan or health insurance policy provider or issuer from including a provision that allows the provider or insurer to deny payment to the dentist for a covered service provided to a patient and that prohibits the dentist from billing for and collecting the amount owed for the service from the patient. The substitute does not include this prohibition but does include a prohibition against such a contract including a provision that does both of the following:

- allows the provider or issuer to disallow a service, resulting in denial of payment to the dentist for service that ordinarily would have been covered; and
- prohibits the dentist from billing for and collecting from the patient the amount owed for the service if there is a dental necessity for that service.