

BILL ANALYSIS

Senate Research Center
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S.B. 1135
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Health care is rapidly moving towards capitated value-based care arrangements like advanced primary care and direct primary care, where providers take on the risk of caring for patients for a set monthly fee. These models gain traction for employees, employers, and doctors. For example, more than 80 percent of employers say they would sign up for an all-inclusive direct primary care plan if given the option.

Currently, Texas law, written decades ago, limits payment and benefit design innovation. HMOs are the only type of health plan in Texas that can partner with doctors for risk-based, value-based payments. Unfortunately, PPO plans and EPO plans cannot pay a primary care doctor a flat, monthly payment for risk-based direct primary care or advanced primary care.

The American Academy of Family Physicians states that "It's clear that volume-based, fee-for-service (FFS) care doesn't adequately support the comprehensive, continuous nature of primary care, and it doesn't keep costs in check. Value-based care (VBC), by contrast, is comprehensive and longitudinal, prioritizing quality and outcomes over quantity of services provided." The State agrees and Medicaid is moving to value-based care: The Health and Human Services Commission says that "Fee-for-service payment models are generally seen by health care experts to incentivize volume and not necessarily promote quality." That's why starting in 2021, half of Medicaid contracts must now be in alternative payment models and one-quarter of those agreements must include risk-based payments.

S.B. 1135 will clarify that a provider who enters into such an arrangement is not required to obtain a certificate of authority, as they are not considered "insurers," and sets out contract terms that must be included in these payment models. In addition, the bill ensures that doctors are not forced into value-based care arrangements.

As proposed, S.B. 1135 amends current law relating to certain health care services contract arrangements entered into by insurers or employee benefit plans and health care providers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 101.055(a), Insurance Code, as follows:

(a) Provides that Section 101.051(b)(7) (relating to providing that contracting to provide in this state indemnification or expense reimbursement for a medical expense by direct payment, reimbursement, or otherwise to a person domiciled in this state or for a risk located in this state, whether as an insurer, agent, administrator, trust, or funding mechanism or by another method constitutes the business of insurance) does not apply to:

(1)-(2) makes nonsubstantive changes to these subdivisions; or

(3) a self-funded employee welfare benefit plan that enters into a value-based risk sharing contract arrangement with a health care provider or group of health care providers.

SECTION 2. Amends Subchapter A, Chapter 1301, Insurance Code, by adding Section 1301.0065, as follows:

Sec. 1301.0065. COMPENSATION OF PHYSICIANS OR PROVIDERS UNDER HEALTH CARE SERVICES ARRANGEMENTS. (a) Authorizes a preferred provider benefit plan to provide or arrange for health care services with a physician or health care provider through a contract or subcontract for compensation under:

(1) a fee-for-service arrangement;

(2) a risk-sharing arrangement; or

(3) a capitation arrangement under which a fixed predetermined payment is made in exchange for the provision of, or for the arrangement to provide and the guaranty of the provision of, a defined set of covered services to covered persons for a specified period without regard to the quantity of services actually provided.

(b) Provides that a physician or health care provider that enters into a contract or subcontract described by Subsection (a) is not considered to be engaging in the business of insurance.

SECTION 3. Effective date: upon passage or September 1, 2023.