

## **BILL ANALYSIS**

Senate Research Center

S.B. 1342  
By: Perry  
Health & Human Services  
5/29/2023  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Medicaid beneficiaries may have additional insurance coverage through third-party sources. To ensure Medicaid is the payer of last resort, the Health and Human Services Commission-Office of the Inspector General's Third-Party Recoveries (TPR) Division implements and monitors all third-party liability (TPL) cost avoidance and recovery processes in accordance with federal law and regulations.

In March 2022, federal TPL requirements were updated, effective on January 1, 2024. This law further strengthens Section 1902(a)(25)(I) of the Social Security Act by:

- Providing that state law must require third parties (other than Medicare) to accept the state's "authorization" that the item or service is covered under the state plan "as if such authorization were the prior authorization made by the third party for such item or service";
- Adding a 60-day timeliness requirement in which the third party must respond to a state's inquiry about a claim; and
- Adding that a third party must agree not to deny a state's claim for failure to obtain prior authorization for the item or service.

S.B. 1342 updates Texas TPL statutes to reflect the updates in federal law and ensure that they are enforceable at the state level.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1342 amends current law relating to requirements applicable to certain third-party health insurers in relation to Medicaid.

### **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 531.024131(a), Government Code, as follows:

- (a) Authorizes the Health and Human Services Commission (HHSC), if cost-effective, to take certain actions, including expanding the scope of persons about whom information is collected under Section 32.0424(a), rather than Section 32.042 (Information Required From Health Insurers), Human Resources Code, to include recipients of services provided through other benefits programs administered by HHSC or a health and human services agency.

SECTION 2. Amends Section 32.0421(a), Human Resources Code, to authorize HHSC to impose an administrative penalty on a person who does not comply with a request for information made under Section 32.0424(a), rather than Section 32.042(b) (relating to requiring the state's Medicaid third-party recovery division to identify state medical assistance recipients who have third-party health coverage or insurance).

SECTION 3. Amends Section 32.0424, Human Resources Code, as follows:

Sec. 32.0424. REQUIREMENTS OF THIRD-PARTY HEALTH INSURERS. (a) Requires a third-party health insurer to provide to HHSC or HHSC's designee, on HHSC's or HHSC's designee's request, information in a form prescribed by the executive commissioner of HHSC necessary to determine certain information.

(b) Requires a third-party health insurer to accept the state's right of recovery and the assignment under Section 32.033 (Subrogation) to the state of any right of an individual or other entity to payment from the third-party health insurer for an item or service for which payment was made under the medical assistance program, including a waiver program established under the medical assistance program.

(b-1) Requires the third-party health insurer, except as provided by Subsection (b-2), for an item or service provided to an individual entitled to medical assistance that was previously paid for by HHSC or HHSC's designee and for which a third-party health insurer is responsible for payment, to accept authorization provided by HHSC or HHSC's designee that the item or service is covered under the medical assistance program as if that authorization is a prior authorization made by the third-party health insurer for the item or service.

(b-2) Provides that Subsection (b-1) does not apply to a third-party health insurer with respect to providing:

(1) hospital insurance benefits or supplementary insurance benefits under Part A or B of Title XVIII of the Social Security Act (42 U.S.C. Section 1395c et seq. or 1395j et seq.);

(2) a health care prepayment plan under Section 1833(a)(1)(A), Social Security Act (42 U.S.C. Section 1395l(a)(1)(A));

(3) a Medicare Advantage plan under Part C of Title XVIII of the Social Security Act (42 U.S.C. Section 1395w-21 et seq.);

(4) a prescription drug plan as a prescription drug plan sponsor under Part D of Title XVIII of the Social Security Act (42 U.S.C. Section 1395w-101 et seq.); or

(5) a reasonable cost reimbursement plan under Section 1876, Social Security Act (42 U.S.C. Section 1395mm).

(c) Requires a third-party health insurer, not later than the 60th day after the date the insurer receives an inquiry from HHSC or HHSC's designee regarding a claim for payment for any health care item or service submitted to the insurer not later than the third year after the date the health care item or service was provided, to respond to the inquiry. Deletes existing text requiring a third-party health insurer to respond to any inquiry by HHSC regarding a claim for payment for any health care item or service reimbursed by HHSC under the medical assistance program not later than the third anniversary of the date the health care item or service was provided.

(d) Prohibits a third-party health insurer from denying a claim submitted by HHSC or HHSC's designee for which payment was made under the medical assistance program solely on the basis of certain reasons, including, for a responsible third-party health insurer, other than an insurer described by Subsection (b-2), a failure to obtain prior authorization for the item or service for which the claim is being submitted, if certain criteria are met.

(e) Defines "third-party health insurer." Deletes existing text providing that this section does not limit the scope or amount of information required by Section 32.042.

SECTION 4. Repealer: Section 32.042 (Information Required From Health Insurers), Human Resources Code.

SECTION 5. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 6. Effective date: September 1, 2023.