

## **BILL ANALYSIS**

C.S.S.B. 2476  
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Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2019, the Texas Legislature passed S.B. 1294, also known as the Surprise Billing Act, authored by Senator Kelly Hancock. Prior to that legislation, if a health insurer refused to pay the full amount charged by an out-of-network doctor for a medical procedure, the doctor could bill the patient for the balance of the cost, often resulting in unexpected bills for patients. That legislation did not cover health care or medical services performed by an out-of-network emergency medical services provider, or a covered supply or covered transport related to such services provided by municipalities, which continue to engage in such balance billing. C.S.S.B. 2476 seeks to provide balance billing protections relating to such services, supplies, and transport.

### **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.S.B. 2476 amends the Insurance Code to require a health maintenance organization (HMO), the administrator of a health benefit plan offered by a nonprofit agricultural organization, an insurer offering a preferred provider benefit plan, and the administrator of a managed care plan provided under the Texas Employees Group Benefits Act, Texas Public School Retired Employees Group Benefits Act, or Texas School Employees Uniform Group Health Coverage Act, as applicable, to pay for a covered health care or medical care service performed for, or a covered supply or transport related to that service provided to an enrollee, participant, or insured by a non-network emergency medical services provider or out-of-network provider who is an emergency medical services provider, as follows:

- if the political subdivision has submitted the balance billing rate to the Texas Department of Insurance (TDI), at the rate set, controlled, or regulated by the political subdivision in which the service originated or the transport originated if transport is provided; or
- if the political subdivision has not submitted the rate to TDI, the lesser of the provider's billed charge or 325 percent of the current Medicare rate, including any applicable extenders and modifiers.

C.S.S.B. 2476, with respect to such payments, does the following:

- requires an HMO, administrator, or insurer, as applicable, to adjust a payment at the rate set, controlled, or regulated by the political subdivision each plan year by increasing the

payment by the lesser of the Medicare Inflation Index or 10 percent of the provider's previous calendar year rates;

- requires the HMO, administrator, or insurer to make the payment directly to the provider not later than, as applicable, the 30th day after the date the entity receives an electronic claim for those services that includes all information necessary for the entity to pay the claim or the 45th day after the date the entity receives a nonelectronic claim for those services that includes such information;
- prohibits a non-network emergency medical services provider or an out-of-network provider who is an emergency medical services provider, as applicable, or a person asserting a claim as an agent or assignee of the provider from billing an enrollee, participant, or insured receiving a health care or medical care service or supply or transport in an amount greater than an applicable copayment, coinsurance, and deductible under the applicable plan that is based on the amount initially determined payable by the HMO, administrator, or insurer or, if applicable, a modified amount as determined under the entity's internal appeal process;
- establishes that the enrollee, insured, or participant, as applicable, does not have financial responsibility for such an amount and that the requirement to pay for the service, supply, or transport may not be construed to require the imposition of a penalty for the violation of certain claims payment provisions; and
- defines an "emergency medical services provider," by reference, as a person who uses or maintains emergency medical services vehicles, medical equipment, and emergency medical services personnel to provide emergency medical services, but does not include an air ambulance.

The bill's provisions regarding non-network and out-of-network emergency medical services providers and out-of-network emergency medical services provider payments expires September 1, 2025.

C.S.S.B. 2476 requires the balance billing prohibition notice to include the statement of the billing prohibition, and requires an HMO, administrator, or insurer to provide the explanation of benefits with the notice to a physician or health care provider not later than the date the entity makes a payment under the bill's provisions.

C.S.S.B. 2476 authorizes a political subdivision to submit to TDI, in the form and manner prescribed by the commissioner of insurance, a rate set, controlled, or regulated by the political subdivision for purposes of non-network and out-of-network emergency medical services providers and out-of-network emergency medical services provider payments. The bill requires TDI to establish and maintain on its website a publicly accessible database for the rates. These provisions expire September 1, 2025. The bill expressly does not require TDI to establish the database before January 1, 2024.

C.S.S.B. 2476 applies only to emergency medical services provided on or after January 1, 2024. Emergency medical services provided before January 1, 2024, are governed by the law in effect immediately before the bill's effective date, and that law is continued in effect for that purpose.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2023.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2476 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute revises a provision in the engrossed regarding the authorization for a political subdivision to submit to TDI a balance billing rate set, controlled, or regulated by the political

subdivision by specifying that the political subdivision submits the rate in the form and manner prescribed by the commissioner of insurance.

Whereas the engrossed made its provisions applicable only to a ground ambulance service provided on or after January 1, 2024, the substitute makes its provisions applicable only to emergency medical services provided on or after that date.

The substitute includes a provision absent from the engrossed that expressly does not require TDI to establish the emergency medical services provider balance billing rate database before January 1, 2024.