

By: Oliverson

H.B. No. 3848

A BILL TO BE ENTITLED

1 AN ACT
2 relating to health maintenance organization and preferred provider
3 benefit plan minimum access standards for nonemergency ambulance
4 transport services delivered by emergency medical services
5 providers; providing administrative penalties.

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

7 SECTION 1. Section 843.002(24), Insurance Code, is amended
8 to read as follows:

9 (24) "Provider" means:

10 (A) a person, other than a physician, who is
11 licensed or otherwise authorized to provide a health care service
12 in this state, including:

13 (i) a chiropractor, registered nurse,
14 pharmacist, optometrist, or acupuncturist; ~~[or]~~

15 (ii) a pharmacy, hospital, or other
16 institution or organization; or

17 (iii) an emergency medical services
18 provider;

19 (B) a person who is wholly owned or controlled by
20 a provider or by a group of providers who are licensed or otherwise
21 authorized to provide the same health care service; or

22 (C) a person who is wholly owned or controlled by
23 one or more hospitals and physicians, including a
24 physician-hospital organization.

1 SECTION 2. Section 843.151, Insurance Code, is amended to
2 read as follows:

3 Sec. 843.151. RULES. The commissioner may adopt
4 reasonable rules as necessary and proper to:

5 (1) implement this chapter and Section 1367.053,
6 Subchapter A, Chapter 1452, Subchapter B, Chapter 1507, Chapters
7 222, 251, and 258, as applicable to a health maintenance
8 organization, and Chapters 1271 and 1272, including rules to:

9 (A) prescribe authorized investments for a
10 health maintenance organization for all investments not otherwise
11 addressed in this chapter;

12 (B) ensure that enrollees have adequate access to
13 health care services; and

14 (C) establish minimum physician-to-patient
15 ratios, mileage requirements for primary and specialty care,
16 minimum access standards for nonemergency ambulance transport
17 services delivered by an emergency medical services provider,
18 maximum travel time, and maximum waiting time for obtaining an
19 appointment; and

20 (2) meet the requirements of federal law and
21 regulations.

22 SECTION 3. Section 843.304(c), Insurance Code, is amended
23 to read as follows:

24 (c) This section does not require that a health maintenance
25 organization:

26 (1) use a particular type of provider in its
27 operation;

1 (2) accept each provider of a category or type, except
2 as provided by Article 21.52B; [~~or~~]

3 (3) contract directly with providers of a particular
4 category or type; or

5 (4) contract with an emergency medical services
6 provider if that provider does not have the authority or ability to
7 operate in the health maintenance organization's service area.

8 SECTION 4. Subchapter I, Chapter 843, Insurance Code, is
9 amended by adding Section 843.3046 to read as follows:

10 Sec. 843.3046. NONEMERGENCY AMBULANCE TRANSPORT SERVICES.

11 (a) A health maintenance organization offering a health care plan
12 that covers a nonemergency ambulance transport service that is
13 within the scope of an emergency medical services provider's
14 license may not refuse to provide reimbursement to an in-network
15 emergency medical services provider for the performance of the
16 covered service solely because the service is provided by an
17 emergency medical services provider.

18 (b) This section does not require a health maintenance
19 organization to cover a particular health care or nonemergency
20 ambulance transport service.

21 (c) This section does not affect the right of a health
22 maintenance organization to determine whether a health care or
23 nonemergency ambulance transport service is medically necessary.

24 (d) A health maintenance organization that violates this
25 section is subject to an administrative penalty as provided by
26 Chapter 84 of not more than \$1,000 for each claim that remains
27 unpaid in violation of this section. Each day the violation

1 continues constitutes a separate violation.

2 SECTION 5. Section 843.305(d), Insurance Code, is amended
3 to read as follows:

4 (d) This section does not require that a health maintenance
5 organization:

6 (1) use a particular type of physician or provider in
7 its operation;

8 (2) accept a physician or provider of a category or
9 type that does not meet the practice standards and qualifications
10 established by the health maintenance organization; ~~or~~

11 (3) contract directly with physicians or providers of
12 a particular category or type; or

13 (4) contract with an emergency medical services
14 provider if that provider does not have the authority or ability to
15 operate in the health maintenance organization's service area.

16 SECTION 6. Section 1301.001(1-a), Insurance Code, is
17 amended to read as follows:

18 (1-a) "Health care provider" means a practitioner,
19 institutional provider, or other person or organization that
20 furnishes health care services and that is licensed or otherwise
21 authorized to practice in this state. The term includes an
22 emergency medical services provider, a pharmacist, and a
23 pharmacy. The term does not include a physician.

24 SECTION 7. Section 1301.005, Insurance Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) This section does not require that an insurer contract
27 with an emergency medical services provider if that provider does

1 not have the authority or ability to operate in the insurer's
2 designated service area.

3 SECTION 8. Section 1301.007, Insurance Code, is amended to
4 read as follows:

5 Sec. 1301.007. RULES. The commissioner shall adopt rules
6 as necessary to:

- 7 (1) implement this chapter; ~~and~~
8 (2) ensure reasonable accessibility and availability
9 of preferred provider services to residents of this state; and
10 (3) establish minimum access standards for
11 nonemergency ambulance transport services delivered by an
12 emergency medical services provider.

13 SECTION 9. Section 1301.051, Insurance Code, is amended by
14 adding Subsection (f) to read as follows:

15 (f) This section does not require that an insurer contract
16 with an emergency medical services provider if that provider does
17 not have the authority or ability to operate in the insurer's
18 designated service area.

19 SECTION 10. Subchapter B, Chapter 1301, Insurance Code, is
20 amended by adding Section 1301.0517 to read as follows:

21 Sec. 1301.0517. NONEMERGENCY AMBULANCE TRANSPORT SERVICES.

22 (a) An insurer offering a preferred provider benefit plan that
23 covers a nonemergency ambulance transport service that is within
24 the scope of an emergency medical services provider's license may
25 not refuse to provide reimbursement to an in-network emergency
26 medical services provider for the performance of the covered
27 service solely because the service is provided by an emergency

1 medical services provider.

2 (b) This section does not require an insurer to cover a
3 particular medical or health care service or nonemergency ambulance
4 transport service.

5 (c) This section does not affect the right of an insurer to
6 determine whether a medical or health care service or nonemergency
7 ambulance transport service is medically necessary.

8 (d) An insurer that violates this section is subject to an
9 administrative penalty as provided by Chapter 84 of not more than
10 \$1,000 for each claim that remains unpaid in violation of this
11 section. Each day a violation continues constitutes a separate
12 violation.

13 SECTION 11. The change in law made by this Act applies only
14 to a health benefit plan that is delivered, issued for delivery, or
15 renewed on or after January 1, 2024. A health benefit plan that is
16 delivered, issued for delivery, or renewed before January 1, 2024,
17 is governed by the law as it existed immediately before the
18 effective date of this Act, and that law is continued in effect for
19 that purpose.

20 SECTION 12. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2023.