

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.