

By: Bucy

H.B. No. 5233

A BILL TO BE ENTITLED

AN ACT

relating to expedited credentialing for licensed behavior analysts providing services under a managed care plan.

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

SECTION 1. Chapter 1452, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. EXPEDITED CREDENTIALING PROCESS FOR CERTAIN BEHAVIOR ANALYSTS

Sec. 1452.251. DEFINITIONS. In this subchapter:

(1) "Applicant" means a behavior analyst applying for expedited credentialing under this subchapter.

(2) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.

(3) "Health care provider" means an individual who is licensed, certified, or otherwise authorized to provide health care services in this state.

(4) "Managed care plan" means a health benefit plan under which health care services are provided to enrollees through contracts with health care providers and that requires enrollees to use participating providers or that provides a different level of coverage for enrollees who use participating providers. The term includes a health benefit plan issued by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

1 (C) any other entity that issues a health benefit
2 plan, including an insurance company.

3 (5) "Participating provider" means a health care
4 provider who has contracted with a health benefit plan issuer to
5 provide services to enrollees.

6 (6) "Professional practice" means a business entity
7 that is owned by one or more behavior analysts.

8 Sec. 1452.252. APPLICABILITY. This subchapter applies only
9 to a behavior analyst who joins an established professional
10 practice that has a contract with a managed care plan.

11 Sec. 1452.253. ELIGIBILITY REQUIREMENTS. To qualify for
12 expedited credentialing under this subchapter and payment under
13 Section 1452.254, a behavior analyst must:

14 (1) be licensed in this state by, and in good standing
15 with, the Texas Department of Licensing and Regulation;

16 (2) submit all documentation and other information
17 required by the managed care plan issuer to begin the credentialing
18 process required for the issuer to include the behavior analyst in
19 the plan's network; and

20 (3) agree to comply with the terms of the managed care
21 plan's participating provider contract with the behavior analyst's
22 established professional practice.

23 Sec. 1452.254. PAYMENT OF BEHAVIOR ANALYST DURING
24 CREDENTIALING PROCESS. After an applicant has submitted the
25 information required by the managed care plan issuer under Section
26 1452.253, the issuer shall, for payment purposes only, treat the
27 applicant as if the applicant is a participating provider in the

1 plan's network when the applicant provides services to the plan's
2 enrollees, including:

3 (1) authorizing the applicant to collect copayments
4 from the enrollees; and

5 (2) making payments to the applicant.

6 Sec. 1452.255. DIRECTORY ENTRIES. Pending the approval of
7 an application submitted under Section 1452.253, the managed care
8 plan issuer may exclude the applicant from the plan's directory,
9 Internet website listing, or other listing of participating
10 providers.

11 Sec. 1452.256. EFFECT OF FAILURE TO MEET CREDENTIALING
12 REQUIREMENTS. If, on completion of the credentialing process, the
13 managed care plan issuer determines that the applicant does not
14 meet the issuer's credentialing requirements:

15 (1) the issuer may recover from the applicant or the
16 applicant's professional practice an amount equal to the difference
17 between payments for in-network benefits and out-of-network
18 benefits; and

19 (2) the applicant or the applicant's professional
20 practice may retain any copayments collected or in the process of
21 being collected as of the date of the issuer's determination.

22 Sec. 1452.257. ENROLLEE HELD HARMLESS. An enrollee is not
23 responsible and shall be held harmless for the difference between
24 in-network copayments paid by the enrollee to a behavior analyst
25 who is determined to be ineligible under Section 1452.256 and the
26 enrollee's managed care plan's charges for out-of-network services.
27 The behavior analyst and the behavior analyst's professional

1 practice may not charge the enrollee for any portion of the behavior
2 analyst's fee that is not paid or reimbursed by the plan.

3 Sec. 1452.258. LIMITATION ON MANAGED CARE ISSUER LIABILITY.
4 A managed care plan issuer that complies with this subchapter is not
5 subject to liability for damages arising out of or in connection
6 with, directly or indirectly, the payment by the issuer of a
7 behavior analyst treated as if the behavior analyst is a
8 participating provider in the plan's network.

9 SECTION 2. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2023.