| **House Bill 3359**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (IE) | CONFERENCE |
| SECTION 1. Section 1301.001, Insurance Code, is amended by adding Subdivision (6-a) to read as follows:  (6-a) "Post-emergency stabilization care" means health care services that are furnished by an out-of-network provider, including an out-of-network hospital, freestanding emergency medical care facility, or comparable emergency facility, regardless of the department of the facility in which the services are furnished, after an insured is stabilized and as part of outpatient observation or an inpatient or outpatient stay with respect to the visit in which the emergency care, as defined by Section 1301.155, is furnished. | SECTION 1. Same as House version. |  |
| SECTION 2. The heading to Section 1301.005, Insurance Code, is amended to read as follows:  Sec. 1301.005. AVAILABILITY OF PREFERRED PROVIDERS; SERVICE AREA LIMITATIONS. | SECTION 2. Same as House version. |  |
| SECTION 3. Section 1301.005, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:  (a) An insurer offering a preferred provider benefit plan shall ensure that both preferred provider benefits and basic level benefits, including benefits for emergency care, as defined by Section 1301.155, and post-emergency stabilization care, are reasonably available to all insureds within a designated service area. This subsection does not apply to an exclusive provider benefit plan.  (d) A service area, other than a statewide service area, may include noncontiguous geographic areas but may not divide a county. | SECTION 3. Same as House version. |  |
| SECTION 4. Section 1301.0053, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:  (a) If an out-of-network provider provides emergency care as defined by Section 1301.155 or post-emergency stabilization care to an enrollee in an exclusive provider benefit plan, the issuer of the plan shall reimburse the out-of-network provider at the usual and customary rate or at a rate agreed to by the issuer and the out-of-network provider for the provision of the services and any supply related to those services. The insurer shall make a payment required by this subsection directly to the provider not later than, as applicable:  (1) the 30th day after the date the insurer receives an electronic clean claim as defined by Section 1301.101 for those services that includes all information necessary for the insurer to pay the claim; or  (2) the 45th day after the date the insurer receives a nonelectronic clean claim as defined by Section 1301.101 for those services that includes all information necessary for the insurer to pay the claim.  (b) For emergency care or post-emergency stabilization care subject to this section or a supply related to that care, an out-of-network provider or a person asserting a claim as an agent or assignee of the provider may not bill an insured in, and the insured does not have financial responsibility for, an amount greater than an applicable copayment, coinsurance, and deductible under the insured's exclusive provider benefit plan that:  (1) is based on:  (A) the amount initially determined payable by the insurer; or  (B) if applicable, a modified amount as determined under the insurer's internal appeal process; and  (2) is not based on any additional amount determined to be owed to the provider under Chapter 1467.  (d) Post-emergency stabilization care that is subject to this section and a supply related to that care are subject to Chapter 1467 in the same manner as if the care and supply are emergency care, as defined by Section 1301.155.  (e) This section does not apply to claims for post-emergency stabilization care if all of the conditions described by 42 U.S.C. Section 300gg-111(a)(3)(C)(ii)(II) are met. | SECTION 4. Same as House version. |  |
| SECTION 5. Section 1301.0055, Insurance Code, is amended to read as follows:  Sec. 1301.0055. NETWORK ADEQUACY STANDARDS. (a) The commissioner shall by rule adopt network adequacy standards that:  (1) require an insurer offering a preferred provider benefit plan to:  (A) monitor compliance with network adequacy standards, including provisions of this chapter relating to network adequacy, on an ongoing basis, reporting any material deviation from network adequacy standards to the department within 30 days of the date the material deviation occurred; and  (B) promptly take any corrective action required to ensure that the network is compliant not later than the 90th day after the date the material deviation occurred unless:  (i) there are no uncontracted licensed physicians or health care providers in the affected county; or  (ii) the insurer requests a waiver under this subsection [~~are adapted to local markets in which an insurer offering a preferred provider benefit plan operates~~];  (2) ensure availability of, and accessibility to, a full range of contracted physicians and health care providers to provide current and projected utilization of health care services for adult and minor [~~to~~] insureds; [~~and~~]  (3) [~~on good cause shown,~~] may allow a waiver for a departure from [~~local market~~] network adequacy standards for a period not to exceed one year if the commissioner determines after receiving public testimony at a public hearing under Section 1301.00565 that good cause is shown and posts on the department's Internet website the name of the preferred provider benefit plan, the insurer offering the plan, each affected county, the specific network adequacy standards waived, and the insurer's access plan;  (4) require disclosure by the insurer of the information described by Subdivision (3) in all promotion and advertisement of the preferred provider benefit plan for which a waiver is allowed under that subdivision;  (5) except as provided by Subdivision (6), limit a waiver from being issued to a preferred provider benefit plan:  (A) more than twice consecutively for the same network adequacy standard in the same county unless the insurer demonstrates, in addition to the good cause described by Subdivision (3), multiple good faith attempts to bring the plan into compliance with the network adequacy standard during each of the prior consecutive waiver periods; or  (B) more than a total of four times within a 21-year period for each county in a service area for issues that may be remedied through good faith efforts; and  (6) authorize the commissioner to issue a waiver that would otherwise be unavailable under Subdivision (5) if the waiver request demonstrates, and the department confirms annually, that there are no uncontracted physicians or health care providers in the area to meet the specific standard for a county in a service area [~~and the affected local market~~].  (b) The standards described by Subsection (a)(2) must include factors regarding time, distance, and appointment availability. The factors must:  (1) require that all insureds are able to receive an appointment with a preferred provider within the maximum travel times and distances established under Sections 1301.00553 and 1301.00554;  (2) require that all insureds are able to receive an appointment with a preferred provider within the maximum appointment wait times established under Section 1301.00555;  (3) require a preferred provider benefit plan to ensure sufficient choice, access, and quality of physicians and health care providers, in number, size, and geographic distribution, to be capable of providing the health care services covered by the plan from preferred providers to all insureds within the insurer's designated service area, taking into account the insureds' characteristics, medical conditions, and health care needs, including:  (A) the current utilization of covered health care services within the counties of the service area; and  (B) an actuarial projection of utilization of covered health care services, physicians, and health care providers needed within the counties of the service area to meet the needs of the number of projected insureds;  (4) require a sufficient number of preferred providers of emergency medicine, anesthesiology, pathology, radiology, neonatology, oncology, including medical, surgical, and radiation oncology, surgery, and hospitalist, intensivist, and diagnostic services, including radiology and laboratory services, at each preferred hospital, ambulatory surgical center, or freestanding emergency medical care facility that credentials the particular specialty to ensure all insureds are able to receive covered benefits, including access to clinical trials covered by the health benefit plan, at that preferred location;  (5) require that all insureds have the ability to access a preferred institutional provider listed in Section 1301.00553 within the maximum travel times and distances established under Section 1301.00553 for the corresponding county classification;  (6) require that insureds have the option of facilities, if available, of pediatric, for-profit, nonprofit, and tax-supported institutions, with special consideration to contracting with:  (A) teaching hospitals that provide indigent care or care for uninsured individuals as a significant percentage of their overall patient load; and  (B) teaching facilities that specialize in providing care for rare and complex medical conditions and conducting clinical trials;  (7) require that there is an adequate number of preferred provider physicians who have admitting privileges at one or more preferred provider hospitals located within the insurer's designated service area to make any necessary hospital admissions;  (8) provide for necessary hospital services by requiring contracting with general, pediatric, specialty, and psychiatric hospitals on a preferred benefit basis within the insurer's designated service area, as applicable;  (9) ensure that emergency care, as defined by Section 1301.155, is available and accessible 24 hours a day, seven days a week, by preferred providers;  (10) ensure that covered urgent care is available and accessible from preferred providers within the insurer's designated service area within 24 hours for medical and behavioral health conditions;  (11) require an adequate number of preferred providers to be available and accessible to insureds 24 hours a day, seven days a week, within the insurer's designated service area; and  (12) require sufficient numbers and classes of preferred providers to ensure choice, access, and quality of care across the insurer's designated service area. | SECTION 5. Section 1301.0055, Insurance Code, is amended to read as follows:  Sec. 1301.0055. NETWORK ADEQUACY STANDARDS. (a) The commissioner shall by rule adopt network adequacy standards that:  (1) require an insurer offering a preferred provider benefit plan to:  (A) monitor compliance with network adequacy standards, including provisions of this chapter relating to network adequacy, on an ongoing basis, reporting any material deviation from network adequacy standards to the department within 30 days of the date the material deviation occurred; and  (B) promptly take any corrective action required to ensure that the network is compliant not later than the 90th day after the date the material deviation occurred unless:  (i) there are no uncontracted licensed physicians or health care providers in the affected county; or  (ii) the insurer requests a waiver under this subsection [~~are adapted to local markets in which an insurer offering a preferred provider benefit plan operates~~];  (2) ensure availability of, and accessibility to, a full range of contracted physicians and health care providers to provide current and projected utilization of health care services for adult and minor [~~to~~] insureds; [~~and~~]  (3) [~~on good cause shown,~~] may allow a waiver for a departure from [~~local market~~] network adequacy standards for a period not to exceed one year if the commissioner determines after receiving public testimony at a public hearing under Section 1301.00565 that good cause is shown and posts on the department's Internet website the name of the preferred provider benefit plan, the insurer offering the plan, each affected county, the specific network adequacy standards waived, and the insurer's access plan;  (4) require disclosure by the insurer of the information described by Subdivision (3) in all promotion and advertisement of the preferred provider benefit plan for which a waiver is allowed under that subdivision;  (5) except as provided by Subdivision (6), limit a waiver from being issued to a preferred provider benefit plan:  (A) more than twice consecutively for the same network adequacy standard in the same county unless the insurer demonstrates, in addition to the good cause described by Subdivision (3), multiple good faith attempts to bring the plan into compliance with the network adequacy standard during each of the prior consecutive waiver periods; or  (B) more than a total of four times within a 21-year period for each county in a service area for issues that may be remedied through good faith efforts; and  (6) authorize the commissioner to issue a waiver that would otherwise be unavailable under Subdivision (5) if the waiver request demonstrates, and the department confirms annually, that there are no uncontracted physicians or health care providers in the area to meet the specific standard for a county in a service area [~~and the affected local market~~].  (b) The standards described by Subsection (a)(2) must include factors regarding time, distance, and appointment availability. The factors must:  (1) require that all insureds are able to receive an appointment with a preferred provider within the maximum travel times and distances established under Sections 1301.00553 and 1301.00554;  (2) require that all insureds are able to receive an appointment with a preferred provider within the maximum appointment wait times established under Section 1301.00555;  (3) require a preferred provider benefit plan to ensure sufficient choice, access, and quality of physicians and health care providers, in number, size, and geographic distribution, to be capable of providing the health care services covered by the plan from preferred providers to all insureds within the insurer's designated service area, taking into account the insureds' characteristics, medical conditions, and health care needs, including:  (A) the current utilization of covered health care services within the counties of the service area; and  (B) an actuarial projection of utilization of covered health care services, physicians, and health care providers needed within the counties of the service area to meet the needs of the number of projected insureds;  (4) require a sufficient number of preferred providers of emergency medicine, anesthesiology, pathology, radiology, neonatology, oncology, including medical, surgical, and radiation oncology, surgery, and hospitalist, intensivist, and diagnostic services, including radiology and laboratory services, at each preferred hospital, ambulatory surgical center, or freestanding emergency medical care facility that credentials the particular specialty to ensure all insureds are able to receive covered benefits, including access to clinical trials covered by the health benefit plan, at that preferred location;  (5) require that all insureds have the ability to access a preferred institutional provider listed in Section 1301.00553 within the maximum travel times and distances established under Section 1301.00553 for the corresponding county classification;  (6) require that insureds have the option of facilities, if available, of pediatric, for-profit, nonprofit, and tax-supported institutions, with special consideration to contracting with:  (A) teaching hospitals that provide indigent care or care for uninsured individuals as a significant percentage of their overall patient load; and  (B) teaching facilities that specialize in providing care for rare and complex medical conditions and conducting clinical trials;  (7) require that there is an adequate number of preferred provider physicians who have admitting privileges at one or more preferred provider hospitals located within the insurer's designated service area to make any necessary hospital admissions;  (8) provide for necessary hospital services by requiring contracting with general, pediatric, specialty, and psychiatric hospitals on a preferred benefit basis within the insurer's designated service area, as applicable;  (9) ensure that emergency care, as defined by Section 1301.155, is available and accessible 24 hours a day, seven days a week, by preferred providers;  (10) ensure that covered urgent care is available and accessible from preferred providers within the insurer's designated service area within 24 hours for medical and behavioral health conditions;  (11) require an adequate number of preferred providers to be available and accessible to insureds 24 hours a day, seven days a week, within the insurer's designated service area; and  (12) require sufficient numbers and classes of preferred providers to ensure choice, access, and quality of care across the insurer's designated service area.  (c) Subsection (b)(6) does not apply to an exclusive provider benefit plan if the plan has:  (1) contracted with preferred provider hospitals in sufficient number capable of meeting the covered inpatient and outpatient health care benefits for current and actuarially projected utilization in accordance with Subsection (b)(3); or  (2) received a waiver under Subsection (a). [FA1(1)] |  |
| SECTION 6. Subchapter A, Chapter 1301, Insurance Code, is amended by adding Sections 1301.00553, 1301.00554, and 1301.00555 to read as follows:  Sec. 1301.00553. MAXIMUM TRAVEL TIME AND DISTANCE STANDARDS BY PREFERRED PROVIDER TYPE. (a) In this section, "maximum distance" means the miles calculated to drive by automobile within a service area to a particular type of preferred provider.  (b) For purposes of this section, each county in this state is classified as a large metro, metro, micro, or rural county, or a county with extreme access considerations as determined by the federal Centers for Medicare and Medicaid Services by population and density thresholds as of March 1, 2023.  (c) Maximum travel time in minutes and maximum distance in miles for preferred provider benefit plans by preferred provider type for each large metro county are:  (1) for the following physicians, as designated by physician specialty:  TimeDistance  Allergy and Immunology3015  Cardiology2010  Cardiothoracic Surgery3015  Dermatology2010  Emergency Medicine2010  Endocrinology3015  Ear, Nose, and Throat/Otolaryngology3015  Gastroenterology2010  General Surgery2010  Gynecology and Obstetrics105  Infectious Diseases3015  Nephrology3015  Neurology2010  Neurosurgery3015  Oncology: Medical, Surgical2010  Oncology: Radiation3015  Ophthalmology2010  Orthopedic Surgery2010  Physical Medicine and Rehabilitation3015  Plastic Surgery3015  Primary Care: Adults105  Primary Care: Pediatric105  Psychiatry2010  Pulmonology2010  Rheumatology3015  Urology2010  Vascular Surgery3015  (2) for health care practitioners in the following disciplines:  TimeDistance  Chiropractic3015  Occupational Therapy2010  Physical Therapy2010  Podiatry2010  Speech Therapy2010  (3) for the following types of institutional providers:  TimeDistance  Acute Inpatient Hospitals (Emergency Services Available 24/7)2010  Cardiac Catheterization Services3015  Cardiac Surgery Program3015  Critical Care Services: Intensive Care Units2010  Diagnostic Radiology (Freestanding; Hospital Outpatient; Ambulatory Health Facilities with Diagnostic Radiology)2010  Inpatient or Residential Behavioral Health Facility Services3015  Mammography2010  Outpatient Infusion/Chemotherapy2010  Skilled Nursing Facilities2010  Surgical Services (Outpatient or Ambulatory Surgical Center)2010  (4) for the following settings:  TimeDistance  Outpatient Clinical Behavioral Health (Licensed, Accredited, or Certified)105  Urgent Care2010  (d) Maximum travel time in minutes and maximum distance in miles for preferred provider benefit plans by preferred provider type for each metro county are:  (1) for the following physicians, as designated by physician specialty:  TimeDistance  Allergy and Immunology4530  Cardiology3020  Cardiothoracic Surgery6040  Dermatology4530  Emergency Medicine4530  Endocrinology6040  Ear, Nose, and Throat/Otolaryngology4530  Gastroenterology4530  General Surgery3020  Gynecology and Obstetrics1510  Infectious Diseases6040  Nephrology4530  Neurology4530  Neurosurgery6040  Oncology: Medical, Surgical4530  Oncology: Radiation6040  Ophthalmology3020  Orthopedic Surgery3020  Physical Medicine and Rehabilitation4530  Plastic Surgery6040  Primary Care: Adults1510  Primary Care: Pediatric1510  Psychiatry4530  Pulmonology4530  Rheumatology6040  Urology4530  Vascular Surgery6040  (2) for health care practitioners in the following disciplines:  TimeDistance  Chiropractic4530  Occupational Therapy4530  Physical Therapy4530  Podiatry4530  Speech Therapy4530  (3) for the following types of institutional providers:  TimeDistance  Acute Inpatient Hospitals (Emergency Services Available 24/7)4530  Cardiac Catheterization Services6040  Cardiac Surgery Program6040  Critical Care Services: Intensive Care Units4530  Diagnostic Radiology (Freestanding; Hospital Outpatient; Ambulatory Health Facilities with Diagnostic Radiology)4530  Inpatient or Residential Behavioral Health Facility Services7045  Mammography4530  Outpatient Infusion/Chemotherapy4530  Skilled Nursing Facilities4530  Surgical Services (Outpatient or Ambulatory Surgical Center)4530  (4) for the following settings:  TimeDistance  Outpatient Clinical Behavioral Health (Licensed, Accredited, or Certified)1510  Urgent Care4530  (e) Maximum travel time in minutes and maximum distance in miles for preferred provider benefit plans by preferred provider type for each micro county are:  (1) for the following physicians, as designated by physician specialty:  TimeDistance  Allergy and Immunology8060  Cardiology5035  Cardiothoracic Surgery10075  Dermatology6045  Emergency Medicine8060  Endocrinology10075  Ear, Nose, and Throat/Otolaryngology8060  Gastroenterology6045  General Surgery5035  Gynecology and Obstetrics3020  Infectious Diseases10075  Nephrology8060  Neurology6045  Neurosurgery10075  Oncology: Medical, Surgical6045  Oncology: Radiation10075  Ophthalmology5035  Orthopedic Surgery5035  Physical Medicine and Rehabilitation8060  Plastic Surgery10075  Primary Care: Adults3020  Primary Care: Pediatric3020  Psychiatry6045  Pulmonology6045  Rheumatology10075  Urology6045  Vascular Surgery10075  (2) for health care practitioners in the following disciplines:  TimeDistance  Chiropractic8060  Occupational Therapy8060  Physical Therapy8060  Podiatry6045  Speech Therapy8060  (3) for the following types of institutional providers:  TimeDistance  Acute Inpatient Hospitals (Emergency Services Available 24/7)8060  Cardiac Catheterization Services160120  Cardiac Surgery Program160120  Critical Care Services: Intensive Care Units160120  Diagnostic Radiology (Freestanding; Hospital Outpatient; Ambulatory Health Facilities with Diagnostic Radiology)8060  Inpatient or Residential Behavioral Health Facility Services10075  Mammography8060  Outpatient Infusion/Chemotherapy8060  Skilled Nursing Facilities8060  Surgical Services (Outpatient or Ambulatory Surgical Center)8060  (4) for the following settings:  TimeDistance  Outpatient Clinical Behavioral Health (Licensed, Accredited, or Certified)3020  Urgent Care8060  (f) Maximum travel time in minutes and maximum distance in miles for preferred provider benefit plans by preferred provider type for each rural county are:  (1) for the following physicians, as designated by physician specialty:  TimeDistance  Allergy and Immunology9075  Cardiology7560  Cardiothoracic Surgery11090  Dermatology7560  Emergency Medicine7560  Endocrinology11090  Ear, Nose, and Throat/Otolaryngology9075  Gastroenterology7560  General Surgery7560  Gynecology and Obstetrics4030  Infectious Diseases11090  Nephrology9075  Neurology7560  Neurosurgery11090  Oncology: Medical, Surgical7560  Oncology: Radiation11090  Ophthalmology7560  Orthopedic Surgery7560  Physical Medicine and Rehabilitation9075  Plastic Surgery11090  Primary Care: Adults4030  Primary Care: Pediatric4030  Psychiatry7560  Pulmonology7560  Rheumatology11090  Urology7560  Vascular Surgery11090  (2) for health care practitioners in the following disciplines:  TimeDistance  Chiropractic9075  Occupational Therapy7560  Physical Therapy7560  Podiatry7560  Speech Therapy7560  (3) for the following types of institutional providers:  TimeDistance  Acute Inpatient Hospitals (Emergency Services Available 24/7)7560  Cardiac Catheterization Services145120  Cardiac Surgery Program145120  Critical Care Services: Intensive Care Units145120  Diagnostic Radiology (Freestanding; Hospital Outpatient; Ambulatory Health Facilities with Diagnostic Radiology)7560  Inpatient or Residential Behavioral Health Facility Services9075  Mammography7560  Outpatient Infusion/Chemotherapy7560  Skilled Nursing Facilities7560  Surgical Services (Outpatient or Ambulatory Surgical Center)7560  (4) for the following settings:  TimeDistance  Outpatient Clinical Behavioral  Health (Licensed, Accredited, or Certified)4030  Urgent Care7560  (g) Maximum travel time in minutes and maximum distance in miles for preferred provider benefit plans by preferred provider type for each county with extreme access considerations are:  (1) for the following physicians, as designated by physician specialty:  TimeDistance  Allergy and Immunology125110  Cardiology9585  Cardiothoracic Surgery145130  Dermatology110100  Emergency Medicine110100  Endocrinology145130  Ear, Nose, and Throat/Otolaryngology125110  Gastroenterology110100  General Surgery9585  Gynecology and Obstetrics7060  Infectious Diseases145130  Nephrology125110  Neurology110100  Neurosurgery145130  Oncology: Medical, Surgical110100  Oncology: Radiation145130  Ophthalmology9585  Orthopedic Surgery9585  Physical Medicine and Rehabilitation125110  Plastic Surgery145130  Primary Care: Adults7060  Primary Care: Pediatric7060  Psychiatry110100  Pulmonology110100  Rheumatology145130  Urology110100  Vascular Surgery145130  (2) for health care practitioners in the following disciplines:  TimeDistance  Chiropractic125110  Occupational Therapy110100  Physical Therapy110100  Podiatry110100  Speech Therapy110100  (3) for the following institutional providers:  TimeDistance  Acute Inpatient Hospitals (Emergency Services Available 24/7)110100  Cardiac Catheterization Services155140  Cardiac Surgery Program155140  Critical Care Services: Intensive Care Units155140  Diagnostic Radiology (Freestanding; Hospital Outpatient; Ambulatory Health Facilities with Diagnostic Radiology)110100  Inpatient or Residential Behavioral Health Facility Services155140  Mammography110100  Outpatient Infusion/Chemotherapy110100  Skilled Nursing Facilities9585  Surgical Services (Outpatient or Ambulatory Surgical Center)110100  (4) for the following settings:  TimeDistance  Outpatient Clinical Behavioral  Health (Licensed, Accredited, or Certified)7060  Urgent Care110100  Sec. 1301.00554. OTHER MAXIMUM DISTANCE STANDARD REQUIREMENTS; COMMISSIONER AUTHORITY. (a) In this section, "maximum distance" has the meaning assigned by Section 1301.00553.  (b) For a physician specialty not specifically listed in Section 1301.00553, the maximum distance, in any county classification, is 75 miles.  (c) When necessary due to utilization or supply patterns, the commissioner by rule may decrease the base maximum travel time and distance standards listed in this section or Section 1301.00553 for specific counties.  Sec. 1301.00555. MAXIMUM APPOINTMENT WAIT TIME STANDARDS. An insurer must ensure that:  (1) routine care is available and accessible from preferred providers:  (A) within three weeks for medical conditions; and  (B) within two weeks for behavioral health conditions; and  (2) preventive health care services are available and accessible from preferred providers:  (A) within two months for a child, or earlier if necessary for compliance with recommendations for specific preventive health care services; and  (B) within three months for an adult. | SECTION 6. Substantially the same as Senate version. |  |
| SECTION 7. Section 1301.0056, Insurance Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (e) to read as follows:  (a) The commissioner shall by rule adopt a process for the commissioner to examine a preferred provider benefit plan before an insurer offers the plan for delivery to insureds to determine whether the plan meets the quality of care and network adequacy standards of this chapter. An insurer may not offer [~~of a network used by~~] a preferred provider benefit plan or an exclusive provider benefit plan before [~~offered by~~] the commissioner determines that the network meets the quality of care and network adequacy standards of [~~insurer under~~] this chapter or the insurer receives a waiver under Section 1301.0055.  (a-1) An insurer is subject to a qualifying examination of the insurer's preferred provider benefit plans [~~and exclusive provider benefit plans~~] and subsequent quality of care and network adequacy examinations by the commissioner at least once every three years, in connection with a public hearing under Section 1301.00565 concerning a material deviation from network adequacy standards by a previously authorized plan or a request for a waiver of a network adequacy standard, and whenever the commissioner considers an examination necessary. Documentation provided to the commissioner during an examination conducted under this section is confidential and is not subject to disclosure as public information under Chapter 552, Government Code.  (e) Rules adopted under this section must require insurers to provide access to or submit data or information necessary for the commissioner to evaluate and make a determination of compliance with quality of care and network adequacy standards. The rules must require insurers to provide access to or submit data or information that includes:  (1) a searchable and sortable database of network physicians and health care providers by national provider identifier, county, physician specialty, hospital privileges and credentials, and type of health care provider or licensure, as applicable;  (2) actuarial data of current and projected number of insureds by county;  (3) actuarial data of current and projected utilization of each preferred provider type listed in Section 1301.00553 and described by Section 1301.00554 by county; and  (4) any other data or information considered necessary by the commissioner to make a determination to authorize the use of the preferred provider benefit plan in the most efficient and effective manner possible. | SECTION 7. Same as House version. |  |
| SECTION 8. Subchapter A, Chapter 1301, Insurance Code, is amended by adding Sections 1301.00565 and 1301.00566 to read as follows:  Sec. 1301.00565. PUBLIC HEARING ON NETWORK ADEQUACY STANDARDS WAIVERS. (a) In this section, "good faith effort" means honesty in fact, timely participation, observance of reasonable commercial standards of fair dealing, and prioritizing patients' access to in-network care.  (b) The commissioner shall set a public hearing for a determination of whether there is good cause for a waiver when an insurer:  (1) requests a waiver that does not satisfy Section 1301.0055(a)(6);  (2) requests a waiver that the commissioner does not deny; and  (3) does not complete corrective action for a material deviation reported under Section 1301.0055.  (c) The commissioner shall notify affected physicians and health care providers that may be the subject of a discussion of good faith efforts on behalf of the insurer to meet network adequacy standards and provide the physicians and health care providers with an opportunity to submit evidence, including written testimony, and to attend the public hearing and offer testimony either in person or virtually. An out-of-network physician or hospital, including a physician group or health care system referenced in the insurer's waiver request or notice of material deviation, may not be identified by name at the hearing unless the physician or hospital consents to the identification in advance of the hearing.  (d) At the hearing, the commissioner shall consider all written and oral testimony and evidence submitted by the insurer and the public pertinent to the requested waiver, including:  (1) the total number of physicians or health care providers in each preferred provider type listed in Section 1301.00553 within the county and service area being submitted for the waiver and whether the insurer made a good faith effort to contract with those required preferred provider types to meet network adequacy standards of this chapter;  (2) the total number of facilities, and availability of pediatric, for-profit, nonprofit, tax-supported, and teaching facilities, within the county and service area being submitted for a waiver and whether the insurer made a good faith effort to contract with these facilities and facility-based physicians and health care providers to meet network adequacy standards of this chapter;  (3) population, density, and geographical information to determine the possibility of meeting travel time and distance requirements within the county and service area being submitted for a waiver; and  (4) availability of services, population, and density within the county and service area being submitted for the waiver.  (e) The commissioner may not consider a prohibition on balance billing in determining whether to grant a waiver from network adequacy standards.  (f) The commissioner may not grant a waiver without a public hearing.  (g) Except as provided by this subsection, any evidence submitted to the commissioner as evidence for the public hearing that is proprietary in nature is confidential and not subject to disclosure as public information under Chapter 552, Government Code. Information related to provider directories, credentials, and privileges, estimates of patient populations, and actuarial estimates of needed providers to meet the estimated patient population is not protected under this subsection.  (h) A policyholder is entitled to seek judicial review of the commissioner's decision to grant a waiver under this section in a Travis County district court. Review by the district court under this subsection is de novo.  Sec. 1301.00566. EFFECT OF NETWORK ADEQUACY STANDARDS WAIVER ON BALANCE BILLING PROHIBITIONS. After a network adequacy standards waiver is granted by the commissioner, an insurer may refer to the provisions prohibiting balance billing under Sections 1301.0053, 1301.155, 1301.164, or 1301.165, as applicable, in an access plan submitted to the department for the sole purpose of explaining how the insurer will coordinate care to limit the likelihood of a balance bill for services subject to those provisions and not to justify a departure from network adequacy standards. | SECTION 8. Same as House version. |  |
| SECTION 9. Section 1301.009(b), Insurance Code, is amended to read as follows:  (b) The report shall:  (1) be verified by at least two principal officers;  (2) be in a form prescribed by the commissioner; and  (3) include:  (A) a financial statement of the insurer, including its balance sheet and receipts and disbursements for the preceding calendar year, certified by an independent public accountant;  (B) the number of individuals enrolled during the preceding calendar year, the number of enrollees as of the end of that year, and the number of enrollments terminated during that year; and  (C) a statement of:  (i) an evaluation of enrollee satisfaction;  (ii) an evaluation of quality of care;  (iii) coverage areas;  (iv) accreditation status;  (v) premium costs;  (vi) plan costs;  (vii) premium increases;  (viii) the range of benefits provided;  (ix) copayments and deductibles;  (x) the accuracy and speed of claims payment by the insurer for the plan;  (xi) the credentials of physicians who are preferred providers; [~~and~~]  (xii) the number of preferred providers;  (xiii) any waiver requests made and waivers of network adequacy standards granted under Section 1301.00565;  (xiv) any material deviation from network adequacy standards reported to the department under Section 1301.0055; and  (xv) any corrective actions, sanctions, or penalties assessed against the insurer by the department for deficiencies related to the preferred provider benefit plan. | SECTION 9. Same as House version. |  |
| SECTION 10. Subchapter B, Chapter 1301, Insurance Code, is amended by adding Section 1301.0642 to read as follows:  Sec. 1301.0642. CONTRACT PROVISIONS ALLOWING CERTAIN ADVERSE MATERIAL CHANGES PROHIBITED. (a) In this section, "adverse material change" means a change to a preferred provider contract that would decrease the preferred provider's payment or compensation, change the provider's tier to a less preferred tier, or change the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses or decrease the provider's payment or compensation. The term does not include:  (1) a decrease in payment or compensation resulting solely from a change in a published governmental fee schedule on which the payment or compensation is based if the applicability of the schedule is clearly identified in the contract;  (2) a decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;  (3) an administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;  (4) a change that is required by federal or state law;  (5) a termination for cause; or  (6) a termination without cause at the end of the term of the contract.  (b) An adverse material change to a preferred provider contract may only be made during the term of the preferred provider contract with the mutual agreement of the parties. A provision in a preferred provider contract that allows the insurer to unilaterally make an adverse material change during the term of the contract is void and unenforceable.  (c) Any adverse material change to the preferred provider contract may not go into effect until the 120th day after the date the preferred provider affirmatively agrees to the adverse material change in writing.  (d) A proposed amendment by an insurer seeking an adverse material change to a preferred provider contract must include notice that clearly and conspicuously states that a preferred provider may choose to not agree to the amendment and that the decision to not agree to the amendment may not affect:  (1) the terms of the provider's existing contract with the insurer; or  (2) the provider's participation in other health plans or products.  (e) A preferred provider's failure to agree to an adverse material change to a preferred provider contract does not affect:  (1) the terms of the provider's existing contract with the insurer; or  (2) the provider's participation in other health care products or plans.  (f) An insurer's failure to include the notice described by Subsection (d) with the proposed amendment makes an otherwise agreed-to adverse material change void and unenforceable. | SECTION 10. Subchapter B, Chapter 1301, Insurance Code, is amended by adding Section 1301.0642 to read as follows:  Sec. 1301.0642. CONTRACT PROVISIONS ALLOWING CERTAIN ADVERSE MATERIAL CHANGES PROHIBITED. (a) In this section, "adverse material change" means a change to a preferred provider contract with a physician, health care practitioner, or organization of physicians or health care practitioners that would decrease the preferred provider's payment or compensation, change the provider's tier to a less preferred tier, or change the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses or decrease the provider's payment or compensation. The term does not include: [FA1(2)]  (1) a decrease in payment or compensation resulting solely from a change in a published governmental fee schedule on which the payment or compensation is based if the applicability of the schedule is clearly identified in the contract;  (2) a decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;  (3) an administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;  (4) a change that is required by federal or state law;  (5) a termination for cause; or  (6) a termination without cause at the end of the term of the contract.  (b) An adverse material change to a preferred provider contract may only be made during the term of the preferred provider contract with the mutual agreement of the parties. A provision in a preferred provider contract that allows the insurer to unilaterally make an adverse material change during the term of the contract is void and unenforceable.  (c) Any adverse material change to the preferred provider contract may not go into effect until the 120th day after the date the preferred provider affirmatively agrees to the adverse material change in writing.  (d) A proposed amendment by an insurer seeking an adverse material change to a preferred provider contract must include notice that clearly and conspicuously states that a preferred provider may choose to not agree to the amendment and that the decision to not agree to the amendment may not affect:  (1) the terms of the provider's existing contract with the insurer; or  (2) the provider's participation in other health plans or products.  (e) A preferred provider's failure to agree to an adverse material change to a preferred provider contract does not affect:  (1) the terms of the provider's existing contract with the insurer; or  (2) the provider's participation in other health care products or plans.  (f) An insurer's failure to include the notice described by Subsection (d) with the proposed amendment makes an otherwise agreed-to adverse material change void and unenforceable.  (g) This section does not apply to a preferred provider contract:  (1) with an unspecified and indefinite duration;  (2) with no stated or automatic renewal period or event; and  (3) that may only be terminated by notice from one party to the other. [FA1(3)] |  |
| SECTION 11. (a) The changes in law made by this Act apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2024. A policy delivered, issued for delivery, or renewed before January 1, 2024, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.  (b) Section 1301.009(b), Insurance Code, as amended by this Act, applies only to a report submitted on or after October 1, 2024. A report submitted before October 1, 2024, is governed by the law in effect on the date the report was submitted, and that law is continued in effect for that purpose.  (c) Section 1301.0642, Insurance Code, as added by this Act, applies only to a contract entered into, amended, or renewed on or after the effective date of this Act. | SECTION 11. (a) The changes in law made by this Act apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after September 1, 2024. A policy delivered, issued for delivery, or renewed before September 1, 2024, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose. [FA1(4)]  (\_\_) Notwithstanding Subsection (a) of this section, maximum appointment wait time standards prescribed by Sections 1301.0055(b) and 1301.00555, Insurance Code, as added by this Act, apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after September 1, 2025. [FA1(5)]  (b) Section 1301.009(b), Insurance Code, as amended by this Act, applies only to a report submitted on or after October 1, 2024. A report submitted before October 1, 2024, is governed by the law in effect on the date the report was submitted, and that law is continued in effect for that purpose.  (c) Section 1301.0642, Insurance Code, as added by this Act, applies only to a contract entered into, amended, or renewed on or after the effective date of this Act. |  |
| SECTION 12. This Act takes effect September 1, 2023. | SECTION 12. Same as House version. |  |