

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4273
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In *Malouf v. State*, the Supreme Court of Texas interpreted Human Resources Code Section 36.002(8) to mean that, in order to prove a Medicaid fraud violation, the State must establish that a provider both failed to indicate the type of license and the identification number of the health care provider who rendered the service. In that case, although the identification numbers of the actual providers were missing, the claims did identify their license type (e.g., dentist). As a result, the court concluded there was no statutory violation, and the State lost the ability to collect \$16.5 million in civil penalties. This ruling revealed a loophole in the Medicaid Fraud Prevention Act, limiting the State's ability to pursue fraudulent billing practices when only one of the two required data elements is missing.

H.B. 4273 aims to close this gap by clarifying the list of unlawful acts under the Medicaid Fraud Prevention Act. By addressing the ambiguity exposed in the *Malouf* decision, the bill strengthens the State's ability to hold providers accountable when claims misrepresent key provider information, even partially. This clarification will help ensure that fraudulent actors cannot avoid consequences due to technicalities in statutory language.

Key Provisions

- Amends the Human Resources Code to establish that, for purposes of health care program fraud prevention, a person commits an unlawful act if the person makes a claim under a health care program and knowingly fails to indicate the type of license held by the licensed health care provider who actually provided the service.
- Applies only to an unlawful act committed on or after the bill's effective date.

Committee Substitute Changes:

- Adds language of S.B. 961 (89R) to bolster Medicaid eligibility oversight.
- Requires the Texas Health and Human Services Commission (HHSC) to verify all key eligibility before enrolling people in Medicaid.
- Directs HHSC to regularly crosscheck databases to identify any changes in circumstances that might impact ongoing eligibility, including lottery winning, change in voter registration, and use of other benefits in other states; and
- Requires that unless it is permitted by federal law to accept self-attestation, HHSC must verify all key eligibility factors.

C.S.H.B. 4273 amends current law relating to fraud prevention and verifying eligibility for benefits under Medicaid.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 544.0455, Government Code, by adding Subsection (g) to prohibit the Health and Human Services Commission (HHSC) from waiving or seeking authorization to waive a requirement that HHSC conduct periodic electronic data matches to verify a Medicaid recipient's income eligibility under Section 544.0455 (Electronic Data Matching) or other law.

SECTION 2. Amends Section 544.0456, Government Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires HHSC, on a monthly basis, to:

- (1) conduct electronic data matches with the Texas Lottery Commission to determine whether a recipient of supplemental nutrition assistance benefits or Medicaid benefits or a recipient's household member received reportable lottery winnings;
- (2) use the database system developed under Section 532.0201 (Data Collection System) to match vital statistics unit death records with a list of individuals eligible for financial assistance benefits, supplemental nutrition assistance benefits, or Medicaid benefits and ensure that any individual receiving benefits under a program described by Paragraph (A), rather than any individual receiving assistance under either program, who is discovered to be deceased has the individual's eligibility for benefits promptly terminated;
- (3) makes a nonsubstantive change to this subdivision; and
- (4) if a Medicaid recipient also receives supplemental nutrition assistance benefits, review electronic benefit transfer card transactions made exclusively out of state by the recipient to determine whether the transactions indicate a possible change in the recipient's residence for purposes of Medicaid eligibility.

Makes conforming and nonsubstantive changes to this subsection.

(c-1) Requires HHSC, on at least a quarterly basis, to determine whether a Medicaid recipient's voter registration has been canceled under Subchapter B (Cancellation), Chapter 16 (Cancellation of Registration), Election Code, or for any other reason during the preceding 36-month period, to determine whether the cancellation indicates a possible change in the recipient's eligibility for Medicaid benefits.

SECTION 3. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0267, as follows:

Sec. 32.0267. VERIFICATION OF CERTAIN SELF-ATTESTED ELIGIBILITY CRITERIA. Prohibits HHSC, except as provided by Section 32.024715(b)(3)(B) (relating to allowing a former foster care youth to attest to the fact that the youth is a resident of this state without providing additional documentation) and unless self-attestation is permitted by federal law, when determining and certifying a person's eligibility for medical assistance, from accepting self-attestation of the person's income, residency, citizenship, age, household composition, caretaker relative status, or access to other health coverage without additional verification. Requires that the additional verification be obtained by or provided to HHSC before HHSC is authorized to enroll or reenroll the person in the medical assistance program. Requires HHSC to attempt to obtain the additional verification through electronic data matching before requesting documentation from the person.

SECTION 4. Amends Section 36.002, Human Resources Code, to provide that a person commits an unlawful act if the person performs certain actions, including making a claim under a health care program and knowingly failing to indicate certain information, including the type of license

held by the licensed health care provider who actually provided the service, and to make nonsubstantive changes.

SECTION 5. Makes Section 36.002 (Unlawful Acts), Human Resources Code, as amended by this Act, prospective.

SECTION 6. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 7. Effective date: September 1, 2025.