

BILL ANALYSIS

S.B. 1330
By: Hancock
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under the Medicare program, providers and suppliers who accept the Medicare-approved amount as full payment for a covered service are considered to accept assignment, and providers and suppliers that do not accept assignment cannot charge Medicare patients more than 15 percent of the program's allowed charges. However, the bill sponsor has informed the committee that there is a loophole in the Medicare law that does not apply this "limiting charge" to suppliers of durable medical equipment (DME), which includes equipment such as motorized wheelchairs, scooters, oxygen equipment, and continuous positive airway pressure (CPAP) devices, and that this has resulted in abusive practices by some suppliers charging as much as 800 percent more than the program's allowed charges for the supplies and equipment they provide Medicare enrollees, contributing to higher premiums for supplemental Medicare coverage. S.B. 1330 seeks to address this issue and prevent Medicare enrollees from being balance billed for amounts beyond the allowable price by prohibiting a Medicare enrollee from being charged more than 115 percent of the Medicare-approved amount for covered DME and certain other supplies and devices by a nonparticipating provider unless certain conditions are met.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1330 amends the Insurance Code to prohibit a nonparticipating supplier from charging a Medicare enrollee more than 115 percent of the Medicare-approved amount for durable medical equipment, orthotic devices or supplies, or prosthetic devices or supplies covered under Medicare for which the supplier has not accepted written assignment unless the following conditions are met:

- before the enrollee is billed, the enrollee agrees in writing to pay the additional amount; and
- before receiving the durable medical equipment, orthotic device or supply, or prosthetic device or supply, the enrollee enters into a rental payment plan or pays the additional amount in full.

The bill requires such a written agreement between a nonparticipating supplier and a Medicare enrollee to provide notice to the enrollee that, as follows:

- Medicare will reimburse 80 percent of the Medicare-approved amount for durable medical equipment, orthotic devices or supplies, or prosthetic devices or supplies covered under Medicare; and
- a Medicare supplement benefit plan issuer is not required to reimburse the nonparticipating supplier or enrollee for the amount by which the charge exceeds 115 percent of the Medicare-approved amount.

S.B. 1330 establishes that a nonparticipating supplier who violates the bill's provisions relating to billing for certain medical equipment, devices, and supplies engages in a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act.

S.B. 1330 creates a misdemeanor offense for a nonparticipating supplier who intentionally violates the bill's provisions relating to billing for certain medical equipment, devices, and supplies, punishable by a fine of not less than \$500 or more than \$1,000. The bill establishes that the offense may be prosecuted in Travis County or in a county in which prosecution is authorized under the Code of Criminal Procedure.

S.B. 1330 establishes that a Medicare supplement benefit plan issuer is not required to reimburse a Medicare enrollee or nonparticipating supplier for the amount by which a charge for durable medical equipment, orthotic devices or supplies, or prosthetic devices or supplies exceeds 115 percent of the Medicare-allowed amount for the equipment, device, or supply. This provision does not prohibit a Medicare supplement benefit plan issuer and a nonparticipating supplier from negotiating a level and type of reimbursement for such equipment, devices, or supplies.

S.B. 1330 defines the following terms for purposes of the bill's provisions:

- "assignment" as an agreement in which a supplier agrees to accept the Medicare-approved amount as payment for medical equipment or a medical device or supply;
- "durable medical equipment" as medical equipment that can withstand repeated use, is expected to last at least three years, is primarily and customarily used to serve a medical purpose, is generally not useful in the absence of an illness or injury, and is appropriate for use in the home;
- "nonparticipating supplier" as an entity or person who provides Medicare-covered durable medical equipment, orthotic devices or supplies, or prosthetic devices or supplies to Medicare enrollees and is not enrolled in Medicare as a participating supplier;
- "orthotic device or supply" as a custom-fitted or custom-fabricated medical device designed to correct a deformity, improve function, or relieve symptoms of a disease or a medical supply related to such a device; and
- "prosthetic device or supply" as an artificial medical device designed to replace all or part of a limb or internal organ or a medical supply related to such a device.

S.B. 1330, with respect to its provisions relating to billing for certain medical equipment, devices, and supplies, applies only to durable medical equipment or orthotic or prosthetic devices or supplies sold on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.