

BILL ANALYSIS

Senate Research Center
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S.B. 1330
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There have been documented cases of entities charging up to 800 percent more than Medicare-approved prices for power wheelchairs, scooters, and other durable medical equipment (DME). S.B. 1330 closes a current loophole in Medicare law that allows some DME suppliers to abuse the system and charge an unlimited amount for the supplies they provide to Medicare beneficiaries. This legislation creates a mechanism to prevent unreasonable overcharges for durable medical equipment. This would also allow DME suppliers and Medigap insurers to negotiate reimbursement levels for covered DME. If DME is covered by Medicare, Medigap enrollees cannot be balance billed for excess charges. S.B. 1330 seeks to curb artificial premium inflation due to excess charges.

As proposed, S.B. 1330 amends current law relating to billing and reimbursement for certain medical equipment, devices, and supplies provided to Medicare enrollees and creates a criminal offense.

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 Subtitle C, Title 5, Insurance Code, by adding Chapter 556, as follows:

CHAPTER 566. BILLING FOR CERTAIN MEDICAL EQUIPMENT, DEVICES, AND SUPPLIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 566.001. DEFINITIONS. Defines "assignment," "durable medical equipment," "enrollee," "Medicare," "nonparticipating supplier," "orthotic device or supply," and "prosthetic device or supply."

SUBCHAPTER B. REGULATION OF CERTAIN BILLING PRACTICES

Sec. 566.051. LIMITATIONS ON BILLING; NOTICE. (a) Prohibits a nonparticipating supplier from charging an 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:

- (1) before the enrollee is billed, the enrollee agrees in writing to pay the additional amount; and
- (2) before receiving the durable medical equipment, orthotic device or supply, or prosthetic device or supply, the enrollee pays the additional amount in full.

(b) Requires that a written agreement between a nonparticipating supplier and enrollee under this section provide notice to the enrollee that:

(1) 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

(2) 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.

SUBCHAPTER C. ENFORCEMENT

Sec. 566.101. APPLICATION OF DECEPTIVE TRADE PRACTICES LAW. Provides that a nonparticipating supplier who violates this chapter engages in a false, misleading, or deceptive act or practice under Section 17.46 (Deceptive Trade Practices Unlawful), Business & Commerce Code.

Sec. 566.102. CRIMINAL OFFENSE. (a) Provides that a nonparticipating supplier who intentionally violates this chapter commits an offense.

(b) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000.

(c) Authorizes an offense under this section, notwithstanding any other law, to be prosecuted in Travis County or a county in which prosecution is authorized under the Code of Criminal Procedure.

SECTION 2. Amends Subchapter B, Chapter 1652, Insurance Code, by adding Section 1652.059, as follows:

Sec. 1652.059. REIMBURSEMENT FOR CERTAIN MEDICAL EQUIPMENT, DEVICES, AND SUPPLIES. (a) Provides that, in this section, terms defined by Section 566.001 have the meanings assigned by that section.

(b) Provides that a Medicare supplement benefit plan issuer is not required to reimburse an 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.

(c) Provides that this section does not prohibit a Medicare supplement benefit plan issuer and a nonparticipating supplier from negotiating a level and type of reimbursement for durable medical equipment or orthotic or prosthetic devices or supplies.

SECTION 3. Makes application of Chapter 566, Insurance Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2025.