

## **BILL ANALYSIS**

S.B. 1991  
By: Buckingham  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised that the current claims and overpayment recoupment processes imposed on health care providers under Medicaid result in certain burdensome administrative expenses for those providers. S.B. 1991 seeks to address these concerns by making certain revisions to the law relating to electronic visit verification systems to ensure that providers have the flexibility to implement systems that comply with certain federal requirements while also reducing certain administrative burdens.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 3 of this bill.

### **ANALYSIS**

S.B. 1991 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC), if feasible, to ensure a health care provider that uses the provider's recognized proprietary electronic visit verification system is reimbursed under Medicaid for the use of that system. The bill requires HHSC or the executive commissioner, as appropriate, for purposes of facilitating the use of such systems by health care providers and in consultation with industry stakeholders and the applicable stakeholder work group, to do the following:

- develop an open model system that mitigates the administrative burdens identified by providers required to use electronic visit verification;
- allow providers to use emerging technologies, including Internet-based, mobile telephone-based, and global positioning-based technologies, in the providers' systems; and
- adopt rules governing data submission and provider reimbursement.

The bill clarifies that HHSC may recognize a provider's electronic visit verification system as compliant regardless of whether the system was purchased or developed by the provider and removes the requirement for the system to have been in use by the provider since at least June 1, 2014.

S.B. 1991 requires the executive commissioner, in adopting rules establishing due process procedures that must be followed by a managed care organization (MCO) when engaging in fraud and abuse payment recovery efforts under Medicaid or the child health plan program, to require an MCO or an entity with which the MCO contracts for the investigation of fraud and abuse that engages in such payment recovery efforts to do the following:

- provide written notice to a provider required to use electronic visit verification of the MCO's intent to recoup overpayments in accordance with the bill's provisions; and
- provide such a provider at least 60 days to cure any defect in a claim before the MCO may begin any efforts to collect overpayments.

S.B. 1991 requires the executive commissioner to adopt rules that standardize the process by which an MCO collects alleged overpayments made to a health care provider and discovered through an audit or investigation conducted by the MCO secondary to missing electronic visit verification information. The bill requires the executive commissioner, in adopting the rules, to require that the MCO provide written notice of the MCO's intent to recoup overpayments not later than the 30th day after the date an audit is complete and limit the duration of audits to 24 months and sets out the contents of the required notice. The bill prohibits an MCO from attempting to recover such an overpayment before the provider has exhausted all rights to an appeal.

S.B. 1991 establishes that HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, HHSC may, but is not required to, implement a provision of the bill using other appropriations available for that purpose.

**EFFECTIVE DATE**

September 1, 2019.