

SUBJECT: Amending overpayment recoupment process under Medicaid

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Rose
0 nays
1 absent — Noble

SENATE VOTE: On final passage, May 1 — 31-0

WITNESSES: *On House companion bill, HB 4192:*
For — Rachel Hammon, Texas Association for Home Care and Hospice; Jesse Howard, Girling Healthcare; (*Registered, but did not testify:* James Clark and Elise Richardson, Texas Ambulance Association; Will Francis, National Association of Social Workers-Texas Chapter; Lee Johnson, Texas Council of Community Centers; Carole Smith, Private Providers Association of Texas)

Against — None

On — Jordan Nichols, Health and Human Services Commission

BACKGROUND: Government Code sec. 531.1131 requires Medicaid managed care organizations (MCOs) that discover fraud or abuse in Medicaid or the child health plan program to make certain payment recovery efforts after giving notice to the appropriate authorities. This section also requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules establishing due process procedures for MCOs engaging in payment recovery efforts.

Sec. 531.024172(g) authorizes HHSC to recognize a health care provider's proprietary electronic visit verification system if it meets certain standards and has been used by the provider since at least June 1, 2014.

Some observers have noted the need to address burdensome administrative expenses imposed on Medicaid health providers during the claims and overpayment recoupment processes. They suggest that revising laws governing electronic visit verification systems would give providers flexibility and reduce certain administrative burdens.

DIGEST:

SB 1991 would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules that standardized the process by which a managed care organization (MCO) collected alleged overpayments made to a health care provider and discovered through an audit or investigation conducted by the organization secondary to missing electronic visit verification information.

In adopting these rules, the executive commissioner would have to require the MCO to provide written notice of the organization's intent to recoup overpayments by the 30th day after the audit was completed and limit the duration of audits to 24 months.

The required notice would have to inform the provider:

- of the specific claims and electronic visit verification transactions that were the basis of the overpayment;
- of the process the provider should use to communicate with the MCO to provide information about the transactions;
- of the provider's option to seek an informal resolution of the alleged overpayment;
- of the process to appeal the determination that an overpayment was made; and
- that the provider who intended to respond would have to do so by the 30th day after receiving the notice.

An MCO could not attempt to recover an alleged overpayment until the provider had exhausted all rights to an appeal.

In adopting rules establishing due process procedures for MCOs engaging in payment recovery efforts under Medicaid and the child health plan

program, the executive commissioner of HHSC would have to require MCOs or entities with which an MCO contracted for payment recovery efforts to provide:

- written notice to health providers required to use electronic visit verification of the organization's intent to recoup overpayments; and
- providers with at least 60 days to cure any claim defect before the organization could begin any efforts to collect overpayments.

The bill would remove the provision allowing a health care provider's proprietary electronic visit verification system to be recognized by HHSC if the system had been used since at least June 1, 2014.

The bill also would allow an electronic visit verification system to be recognized regardless of whether it was purchased or developed by the provider. If feasible, the executive commissioner of HHSC would have to ensure that a provider who used a recognized system could be reimbursed.

In order to facilitate the use of proprietary electronic visit verification systems by health care providers, the bill would require HHSC or the executive commissioner, in consultation with industry stakeholders and an established work group, to:

- develop an open model system that mitigated the administrative burdens identified by providers who were required to use electronic visit verification;
- allow providers to use emerging technologies in the providers' proprietary electronic visit verification systems; and
- adopt rules governing data submission and provider reimbursement.

HHSC would have to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose.

The bill would take effect September 1, 2019.

