

**SUBJECT:** Authorizing additional payment arrangements for primary care physicians

**COMMITTEE:** Insurance — committee substitute recommended

**VOTE:** 9 ayes — Oliverson, A. Johnson, Cain, Cortez, Caroline Harris, Hull, Julie Johnson, Paul, Perez

0 nays

**WITNESSES:** For — Tom Banning, Texas Academy of Family Physicians; Blake Hutson, Texas Association of Health Plans; Sue Bornstein, Texas Primary Care Consortium (*Registered, but did not testify*: Jesse Sifuentez, Baylor Scott & White Health; Shannon Meroney, National Association of Health Underwriters - Texas; Mia McCord, Texans for Affordable Health Care/American Coalition for Affordable Health Care; Matt Abel, Texas Association of Business; David Reynolds, Texas Chapter American Chapter of Physicians Services; Carrie Simmons, Texas Employers for Affordable Healthcare)

Against — Dr. Zach Jones, Texas Society of Anesthesiologists

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance; Ben Wright, Texas Medical Association)

**BACKGROUND:** Some have suggested that current law restricts the types of payment arrangements a preferred provider organization may offer to physicians to encourage participation in provider networks.

**DIGEST:** CSHB 1073 would authorize a preferred provider benefit plan or an exclusive provider benefit plan to provide or arrange for health care services with a primary care physician (physician) or primary care physician group (group) through contracts for compensation consisting of:

- fee-for-service arrangements;
- risk-sharing arrangements;
- capitation arrangements in which a physician or group would be

paid a predetermined, fixed payment in exchange for providing or arranging to provide a contractually defined set of services to covered persons without regard to the quantity of services actually provided; or

- any combination of the authorized arrangements.

The bill would specify that a physician or group that participated in an authorized payment arrangement would not be engaging in the business of insurance.

A physician or group would not be required to enter a payment arrangement authorized in the bill. Insurers also could not discriminate against a physician or group that elected not to participate in an arrangement. Actions considered discriminatory would include:

- reducing the fee schedule of a physician or group that declined an authorized payment arrangement; or
- requiring a physician or group to participate in an authorized payment arrangement as a condition to join the insurer's network.

A physician or group could file a complaint with the Department of Insurance if the physician or group believed an insurer had taken a discriminatory action.

A contract for an authorized payment arrangement would be required to:

- prohibit the creation of disincentives for providing medically necessary health care services and could not interfere with a physician's independent medical judgment of which services would be medically necessary;
- specify in writing certain items related to performance measures;
- include an attribution process that would assign a patient first to the patient's established physician as specified in the bill or, if none, to the patient's physician of choice;
- identify whether under certain circumstances a bridge rate would be used and describe the rate if used;

- identify whether the rate would provide for a stop-loss threshold or a guaranteed minimum level of payment per month as specified in the bill;
- identify whether payment would consider patients added or removed during the course of a measurement period;
- include an opportunity to renegotiate the rate or provide reimbursement on a fee-for-service basis under certain circumstances;
- state whether catastrophic events were excluded from certain final cost calculations identified in the bill; and
- state the terms for shared savings if payment involved shared savings.

A preferred provider benefit plan or an exclusive provider benefit plan would not be authorized to provide or arrange for services with a physician or group through a contract for compensation under a global capitation arrangement.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.