BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1590
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Human Services
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Committee Report (Substituted)

DIGEST

Currently, a person or a health care provider may fraudulently obtain or deny a workers' compensation medical benefit or payment for a medical service. The comptroller states in a report, the Health Care Claims Study, that the State Office of Risk Management (office) has no authority to sanction providers who do not comply with the requirements of the state's workers' compensation system. Subsequently, the comptroller recommended providing the office with sanctioning authority. C.S.S.B. 1590 would establish the investigation and prosecution of fraud in the workers' compensation program for state employees.

PURPOSE

As proposed, C.S.S.B. 1590 establishes the investigation and prosecution of fraud in the workers' compensation program for state employees.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the risk management board of the State Office of Risk Management in SECTION 1 (Section 412.064, Chapter 412, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 412, Labor Code, by adding Subchapter G, as follows:

SUBCHAPTER G. FRAUD INVESTIGATION AND PREVENTION REGARDING MEDICAL BENEFITS

Sec. 412.061. DEFINITIONS. Defines "fraudulent act" and "program."

Sec. 412.062. CLAIM REVIEW BY OFFICE. Requires the State Office Risk Management (office) to conduct periodic reviews of claims for medical benefits as necessary to determine the medical necessity and appropriateness of the provided services. Requires the office to conduct appropriate claim reviews, in additional to periodic reviews. Authorizes the office to withhold payments to a health care provider who does not provide certain documentation necessary to verify a medical service related to a claim. Requires the board to establish criteria that trigger medical care coordination based on the date of injury, the amount paid in medical benefits, and inappropriate treatment patterns. Requires the office to implement measures for medical care coordination to ensure injured workers receive appropriate treatment for reported injuries.

Sec. 412.063. CLAIMS AUDIT. Requires the director of the office (director) to conduct an annual audit of claims for medical benefits as provided by this section. Requires the director to select certain random claims and to audit the claims to determine validity. Requires the audit to include a review of the claimant's medical history and medical records. Authorizes the director to contract with a private entity for performance of the audit.

Sec. 412.064. PREPAYMENT AUDIT. Requires the risk management board of the office to require, by rule, the office to implement certain prepayment audit procedures.

Sec. 412.065. TRAINING CLASSES IN FRAUD PREVENTION. Requires the director to implement annual training classes for staff of state agencies, contractors, or administering firms who process workers' compensation claims submitted under the program to assist the attendees

to identify potential misrepresentation or fraud in the operation of the program. Authorizes the director to contract with the Health and Human Services Commission (commission) or with a private entity for the operation of the training classes.

Sec. 412.066. ACTION BY OFFICE; COOPERATION REQUIRED. Requires the office to take action against a provider who has obtained payment through a fraudulent act. Requires the office to report any action in writing to the commission. Requires each participating state agency and health care provider to participate and cooperate, including providing access to patient medical records, in any investigation conducted by the director, as a condition of participation. Entitles the director to access to patient medical records and is a "governmental agency" for purposes of this subchapter, notwithstanding any other provision of law. Provides that any medical record submitted to the director is confidential and not subject to disclosure.

Sec. 412.067. FRAUDULENT ACTS BY CLAIMANTS OR PROVIDERS. Requires the director to investigate each complaint alleging a fraud by a claimant, a health care provider, or a state agency regarding a participating provider. Requires the director to terminate the investigation if, after an initial investigation, the complaint is unfounded. Requires the director to refer the complaint to the commission, if further action is warranted, and to provide the relevant information. Requires the commission to initiate promptly administrative proceedings or criminal prosecution on the complaint, and to require restitution to the office in addition to any other penalty assessed or action taken.

Sec. 412.068. REPORTS. Requires the commission and office to report to the legislature at each session certain statistics and other information regarding the claims, prosecutions, restitution, referrals, amount of fraud, and collected restitution on providers.

SECTION 2. Requires the office to implement the training classes under Section 412.065, Labor Code, by January 1, 2000.

SECTION 3. Requires the board to conduct a study regarding the use of fraud detection software. Authorizes the study to include an analysis of the fraud detection program used by the Health and Human Services Commission under Chapter 22, Human Resources Code, for the detection of fraud in the Medicaid program. Requires the board to report the results of its study by February 1, 2001.

SECTION 4. Effective date: September 1, 1999.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 412.062, Labor Code, to require the office to conduct a claim review on appropriate claims. Adds Subsections (d) and (e), to require the board and the office to establish criteria for coordination.

Deletes proposed Section 412.065, Labor Code, regarding a toll-free telephone number. Renumbers Sections 412.066 to 412.068, Labor Code, as Sections 412.065 to 412.067, Labor Code.

Amends the heading of Section 412.067, Labor Code. Requires the director to refer the complaint to the commission, rather than the risk management board. Requires the commission to initiate administrative proceedings or criminal prosecution on the complaint, and to require restitution.

Adds Section 412.068, Labor Code, regarding reports.

Deletes proposed Section 412.069, Labor Code, regarding administrative penalties.

SECTION 2.

Requires the office to implement training classes. Deletes the requirement to implement a toll-free number.

SECTION 3.

Deletes proposed SECTION 3 regarding a requirement to implement training classes.

Reassigns proposed SECTION 4 as SECTION 3, regarding a requirement to make certain studies.

SECTIONS 4-5.

Deletes proposed SECTION 5 making this Act prospective.

Reassigns SECTIONS 6 and 7 as SECTIONS 4 and 5.