BILL ANALYSIS

Senate Research Center
80R16339 PB-F

C.S.S.B. 1582
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State Affairs
4/26/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Insurance Code requires health maintenance organizations (HMOs) and preferred provider organizations (PPOs) to pay health care providers promptly within specified time frames for paper and electronic claims. Current law also requires HMOs and PPOs to adhere to certain procedures when auditing health care provider claims.

C.S.S.B. 1582 updates the Insurance Code to reflect existing technology and the fact that the vast majority of pharmacy claims are filed electronically, with the pharmacy receiving feedback almost instantly from the plan or pharmacy benefit manager whether the claim is accepted or rejected. This bill requires affirmatively adjudicated electronic claims payment via an electronic funds transfer (EFT) and shortens the payment period from 21 days to 14 days. It would also require pharmacy payment within 21 days for affirmatively adjudicated electronic pharmacy claims for pharmacies that are unable to receive funds via EFT.

This bill allows a pharmacy a reasonable amount of time to make necessary staffing changes to maintain patient care while simultaneously accommodating an on-site audit by requiring a pharmacy benefit manager to accommodate the provider's schedule as much as possible and to provide the pharmacy with written notice of the audit by certified mail no later than the 15th day before the audit date.

This bill prohibits the use of extrapolation when auditing pharmacy claims and establishes a specified complaint filing and resolution process for allegations of noncompliance with the Insurance Code, including an appeals process to the State Office of Administrative Hearings.

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 Section 843.002, Insurance Code, by adding Subdivision (9-a) to define "extrapolation."

SECTION 2. Amends Section 843.338, Insurance Code, to include an exception to this subsection as provided by Section 843.339.

SECTION 3. Amends Section 843.339, Insurance Code, as follows:

> Sec. 843.339. New heading: DEADLINE FOR ACTION ON PRESCRIPTION CLAIMS; PAYMENT. (a) Creates this subsection from existing text. Requires a health maintenance organization (HMO) to pay a pharmacy claim that is submitted in a nonelectronic format not later than the deadline provided under Section 843.338.
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> (b) Requires a pharmacy benefit manager that administers a pharmacy claim for an HMO, except as provided by Subsection (c), to pay the provider through electronic funds transfer not later than the 14th day after the date on which the claim was affirmatively adjudicated.

(c) Requires the pharmacy benefit manager, if the provider is unable to receive payment of a claim described by Subsection (b) through electronic funds transfer, to pay the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

SECTION 4. Amends Section 843.340, Insurance Code, by adding Subsections (f) and (g), as follows:

(f) Prohibits an HMO from using extrapolation computations or practices to complete the audit of a provider who is a pharmacist or pharmacy. Prohibits an HMO from requiring extrapolation audits as a condition of participation in the HMO's contract, network, or program for a provider who is a pharmacist or pharmacy.

(g) Requires a pharmacy benefit manager who performs an on-site audit under this chapter of a provider who is a pharmacist or pharmacy to provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible. Requires the notice required under this subsection to be in writing and to be sent by certified mail not later than the 15th day before the date on which the on-site audit is scheduled to occur.

SECTION 5. Amends Section 843.344, Insurance Code, to make this section applicable to a pharmacy benefit manager.

SECTION 6. Amends Subchapter J, Chapter 843, Insurance Code, by adding Sections 843.354, 843.355, and 843.356, as follows:

Sec. 843.354. DEPARTMENT ENFORCEMENT OF PHARMACY CLAIMS. (a) Requires, notwithstanding any other provision of this subchapter, a dispute regarding payment of a claim to a provider who is a pharmacist or pharmacy to be resolved as provided by this section.

(b) Authorizes a provider who is a pharmacist or pharmacy to submit a complaint to the Texas Department of Insurance (TDI) alleging noncompliance with the requirements of this subchapter by an HMO or an entity that contracts with the HMO as provided by Section 843.344. Requires a complaint to be submitted in writing or by submitting a completed complaint form to TDI by mail or through another delivery method. Requires TDI to maintain a complaint form on TDI's Internet website and at TDI's offices for use by a complainant.

(c) Requires the commissioner of insurance (commissioner), after investigation of the complaint by TDI, to determine the validity of the complaint and to enter a written order. Requires the commissioner, in the order, to provide the HMO and the complainant with certain information.

(d) Provides that an order issued under Subsection (c) is final in the absence of a request by the complainant or HMO for a hearing under Section 843.355.

(e) Requires the commissioner, if the TDI investigation substantiates the allegations of noncompliance made under Subsection (b), to require the HMO to pay penalties as provided by Section 843.342, after notice and an opportunity for a hearing as described by Subsection (c).

Sec. 843.355. HEARING BY STATE OFFICE OF ADMINISTRATIVE HEARINGS; FINAL ORDER. (a) Requires the State Office of Administrative Hearings (SOAH) to conduct a hearing regarding a written order of the commissioner under Section 843.354 on TDI's request. Provides that a hearing under this section is subject to Chapter 2001 (Administrative Procedure), Government Code, and requires the hearing to be conducted as a contested case hearing.

(b) Requires the commissioner to file a final order after receipt of a proposal for decision issued by SOAH after a hearing conducted under Subsection (a).

(c) Authorizes TDI, the complainant, or the HMO, if it appears to TDI, the complainant, or the HMO that a person or entity is engaging in or is about to engage in a violation of a final order issued under Subsection (b), to bring an action for judicial review in district court in Travis County to enjoin or restrain the continuation or commencement of the violation or to compel compliance with the final order. Authorizes the complainant or the HMO to also bring an action for judicial review of the final order.

Sec. 843.356. LEGISLATIVE DECLARATION. Provides that it is the intent of the legislature that the requirements contained in this subchapter regarding payment of claims to providers who are pharmacists or pharmacies apply to all health care plans and pharmacy benefit managers unless otherwise prohibited by federal law.

SECTION 7. Amends Section 1301.001, Insurance Code, by amending Subdivision (1) to redefine "health care provider" and adding Subdivision (1-a) to define "extrapolation."

SECTION 8. Amends Section 1301.103, Insurance Code, to provide an exception to this subsection as provided by Section 1301.104.

SECTION 9. Amends Section 1301.104, Insurance Code, as follows:

Sec. 1301.104. New heading: DEADLINE FOR ACTION ON PHARMACY CLAIMS; PAYMENT. (a) Creates this subsection from existing text. Requires an insurer to pay a pharmacy claim that is submitted in a nonelectronic format not later than the deadline provided under Section 1301.103.

(b) Requires a pharmacy benefit manager that administers a pharmacy claim for an insurer under a preferred provider benefit plan, except as provided by Subsection (c), to pay the provider through electronic funds transfer not later than the 14th day after the date on which the claim was affirmatively adjudicated.

(c) Requires the pharmacy benefit manager, if the provider is unable to receive payment of a claim described by Subsection (b) through electronic funds transfer, to pay the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

SECTION 10. Amends Section 1301.105, Insurance Code, by adding Subsections (e) and (f), as follows:

(e) Prohibits an insurer from using extrapolation computations or practices to complete the audit of a preferred provider who is a pharmacist or pharmacy. Prohibits an insurer from requiring extrapolation audits as a condition of participation in the insurer's contract, network, or program for a preferred provider who is a pharmacist or pharmacy.

(f) Requires a pharmacy benefit manager who performs an on-site audit under this chapter of a preferred provider who is a pharmacist or pharmacy to provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible. Requires the notice required under this subsection to be in writing and to be sent by certified mail not later than the 15th day before the date on which the on-site audit is scheduled to occur.

SECTION 11. Amends Section 1301.109, Insurance Code, to make this subchapter applicable to a pharmacy benefit manager.

SECTION 12. Amends Subchapter C-1, Chapter 1301, Insurance code, by adding Sections 1301.139, 1301.140, and 1301.141, as follows:

Sec. 1301.139. DEPARTMENT ENFORCEMENT OF PHARMACY CLAIMS. (a) Requires, notwithstanding any other provision of this subchapter, a dispute regarding

payment of a claim to a preferred provider who is a pharmacist or pharmacy to be resolved as provided by this section.

(b) Authorizes a preferred provider who is a pharmacist or pharmacy to submit a complaint to TDI alleging noncompliance with the requirements of this subchapter by an insurer or an entity that contracts with the insurer as provided by Section 1301.109. Requires a complaint to be submitted in writing or by submitting a completed complaint form to TDI by mail or through another delivery method. Requires TDI to maintain a complaint form on the TDI's Internet website and at the TDI's offices for use by a complainant.

(c) Requires the commissioner, after investigation of the complaint by TDI, to determine the validity of the complaint and to enter a written order. Requires the commissioner, in the order, to provide the insurer and the complainant with certain information.

(d) Provides that an order issued under Subsection (c) is final in the absence of a request by the complainant or insurer for a hearing under Section 1301.140.

(e) Requires the commissioner, if the TDI investigation substantiates the allegations of noncompliance made under Subsection (b), after notice and an opportunity for a hearing as described by Subsection (c), to require the insurer to pay penalties as provided by Section 1301.137.

Sec. 1301.140. HEARING BY STATE OFFICE OF ADMINISTRATIVE HEARINGS; FINAL ORDER. (a) Requires SOAH to conduct a hearing regarding a written order of the commissioner under Section 1301.139 at TDI's request. Requires this hearing to be conducted as a contested case hearing under Chapter 2001, Government Code.

(b) Requires the commissioner to issue a final order after receipt of a proposal for decision issued by SOAH after a hearing conducted under Subsection (a).

(c) Authorizes TDI, the complainant, or the insurer, if it appears that a person or entity is engaging in or is about to engage in a violation of a final order issued under Subsection (b), to bring an action for judicial review in district court in Travis County to enjoin or restrain the continuation or commencement of the violation or to compel compliance with the final order or decision. Authorizes the complainant or the insurer to bring an action for judicial review of the final order.

Sec. 1301.141. LEGISLATIVE DECLARATION. Provides that it is the intent of the legislature that the requirements contained in this subchapter regarding payment of claims to providers who are pharmacists or pharmacies apply to all health care plans and pharmacy benefit managers unless otherwise prohibited by federal law.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2007.