

## **BILL ANALYSIS**

Senate Research Center  
88R1140 MM-F

S.B. 1113  
By: Hughes  
Health & Human Services  
4/24/2023  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

State law establishes content requirements for a managed care contract. Among these requirements are the requirements for managed care organizations (MCOs) operating in the state Medicaid program to adhere to the state's statewide drug formulary, applicable preferred drug list, and prior authorization procedures. These particular requirements are set to lapse on August 31, 2023, after which each MCO would be able to develop its own drug lists and policies for use with its beneficiaries, moving Texas away from the statewide drug formulary model that a number of other states around the country have adopted. This shift would happen at the same time that, according to reports in Healthcare Dive, states across the country are identifying potentially fraudulent drug pricing and reimbursement activity by health plans and pharmacy benefit managers. For example, one company that currently operates in Texas has agreed to pay \$477 million in settlements across a number of states for engaging in such activity, including a \$165.6 million settlement with the State of Texas. Use of a statewide single drug formulary and preferred drug list is the best approach for the state Medicaid program because of its financial transparency, budget predictability, patient access and patient protection standardization, and use of the lowest net cost drug to the program. S.B. 1113 seeks to permanently maintain the use of the single statewide drug formulary and preferred drug list by repealing the aforementioned sunset provision.

As proposed, S.B. 1113 amends current law relating to prescription drug formularies applicable to the Medicaid managed care program.

### **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 533.005(a), Government Code, as follows:

(a) Requires that a contract between a managed care organization and the Health and Human Services Commission (HHSC) for the organization to provide health care services to recipients contain:

(1)-(22) makes no changes to these subdivisions;

(23) a requirement, rather than a requirement subject to Subsection (a-1) (relating to providing that certain requirements of a contract between a managed care organization and HHSC for the organization to provide health care services to recipients do not apply and are prohibited from being enforced on and after August 31, 2023), that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that meets certain criteria; and

(24)-(26) makes no changes to these subdivisions.

SECTION 2. Repealer: Section 533.005(a-1) (relating to providing that certain requirements of a contract between a managed care organization and HHSC for the organization to provide health care services to recipients do not apply and are prohibited from being enforced on and after August 31, 2023), Government Code.

SECTION 3. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 4. Effective date: September 1, 2023.