

All Published Pre-filed Amendments for HB 1907

Oliverson

Amendment

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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Oliverston

1 Amend C.S.H.B. No. 1907 (house committee printing) by
2 striking all below the enacting clause and substituting the
3 following:

4 SECTION 1. Chapter 38, Insurance Code, is amended by adding
5 Subchapter I to read as follows:

6 SUBCHAPTER I. TEXAS ALL PAYOR CLAIMS DATABASE

7 Sec. 38.401. PURPOSE OF SUBCHAPTER. The purpose of this
8 subchapter is to authorize the department to establish an all payor
9 claims database in this state to increase public transparency of
10 health care information and improve the quality of health care in
11 this state.

12 Sec. 38.402. DEFINITIONS. In this subchapter:

13 (1) "Allowed amount" means the amount of a billed
14 charge that a health benefit plan issuer determines to be covered
15 for services provided by a non-network provider. The allowed amount
16 includes both the insurer's payment and any applicable deductible,
17 copayment, or coinsurance amounts for which the insured is
18 responsible.

19 (2) "Center" means the Center for Healthcare Data at
20 The University of Texas Health Science Center at Houston.

21 (3) "Contracted rate" means the fee or reimbursement
22 amount for a network provider's services, treatments, or supplies
23 as established by agreement between the provider and health benefit
24 plan issuer.

25 (4) "Data" means the specific claims and encounters,
26 enrollment, and benefit information submitted to the center under
27 this subchapter.

28 (5) "Database" means the Texas All Payor Claims
29 Database established under this subchapter.

1 (6) "Geozip" means an area that includes all zip codes
2 with identical first three digits.

3 (7) "Payor" means any of the following entities that
4 pay, reimburse, or otherwise contract with a health care provider
5 for the provision of health care services, supplies, or devices to a
6 patient:

7 (A) an insurance company providing health or
8 dental insurance;

9 (B) the sponsor or administrator of a health or
10 dental plan;

11 (C) a health maintenance organization operating
12 under Chapter 843;

13 (D) the state Medicaid program, including the
14 Medicaid managed care program operating under Chapter 533,
15 Government Code;

16 (E) a health benefit plan offered or administered
17 by or on behalf of this state or a political subdivision of this
18 state or an agency or instrumentality of the state or a political
19 subdivision of this state, including:

20 (i) a basic coverage plan under Chapter
21 1551;

22 (ii) a basic plan under Chapter 1575; and

23 (iii) a primary care coverage plan under
24 Chapter 1579; or

25 (F) any other entity providing a health insurance
26 or health benefit plan subject to regulation by the department.

27 (8) "Protected health information" has the meaning
28 assigned by 45 C.F.R. Section 160.103.

29 (9) "Qualified research entity" means:

30 (A) an organization engaging in public interest
31 research for the purpose of analyzing the delivery of health care in

1 this state that is exempt from federal income tax under Section
2 501(a), Internal Revenue Code of 1986, by being listed as an exempt
3 organization in Section 501(c)(3) of that code;

4 (B) an institution of higher education engaged in
5 public interest research related to the delivery of health care in
6 this state; or

7 (C) a health care provider in this state engaging
8 in efforts to improve the quality and cost of health care.

9 (10) "Stakeholder advisory group" means the
10 stakeholder advisory group established under Section 38.403.

11 Sec. 38.403. STAKEHOLDER ADVISORY GROUP. (a) The center
12 shall establish a stakeholder advisory group to assist the center
13 as provided by this subchapter, including assistance in:

14 (1) establishing and updating the standards,
15 requirements, policies, and procedures relating to the collection
16 and use of data contained in the database required by Sections
17 38.404(e) and (f);

18 (2) evaluating and prioritizing the types of reports
19 the center should publish under Section 38.404(e);

20 (3) evaluating data requests from qualified research
21 entities under Section 38.404(e)(2); and

22 (4) assisting the center in developing the center's
23 recommendations under Section 38.408(3).

24 (b) The advisory group created under this section must be
25 composed of:

26 (1) the state Medicaid director or the director's
27 designee;

28 (2) a member designated by the Teacher Retirement
29 System of Texas;

30 (3) a member designated by the Employees Retirement
31 System of Texas; and

1 (4) 12 members designated by the center, including:

2 (A) two members representing the business
3 community, with at least one of those members representing small
4 businesses that purchase health benefits but are not involved in
5 the provision of health care services, supplies, or devices or
6 health benefit plans;

7 (B) two members who represent consumers and who
8 are not professionally involved in the purchase, provision,
9 administration, or review of health care services, supplies, or
10 devices or health benefit plans, with at least one member
11 representing the behavioral health community;

12 (C) two members representing hospitals that are
13 licensed in this state;

14 (D) two members representing health benefit plan
15 issuers that are regulated by the department;

16 (E) two members who are physicians licensed to
17 practice medicine in this state, one of whom is a primary care
18 physician; and

19 (F) two members who are not professionally
20 involved in the purchase, provision, administration, or review of
21 health care services, supplies, or devices or health benefit plans
22 and who have expertise in:

23 (i) health planning;

24 (ii) health economics;

25 (iii) provider quality assurance;

26 (iv) statistics or health data management;

27 or

28 (v) medical privacy laws.

29 (c) A person serving on the stakeholder advisory group must
30 disclose any conflict of interest.

31 (d) Members of the stakeholder advisory group serve fixed

1 terms as prescribed by commissioner rules adopted under this
2 subchapter.

3 Sec. 38.404. ESTABLISHMENT AND ADMINISTRATION OF DATABASE.

4 (a) The department shall collaborate with the center under this
5 subchapter to aid in the center's establishment of the database.
6 The center shall leverage the existing resources and infrastructure
7 of the center to establish the database to collect, process,
8 analyze, and store data relating to medical, dental,
9 pharmaceutical, and other relevant health care claims and
10 encounters, enrollment, and benefit information for the purposes of
11 increasing transparency of health care costs, utilization, and
12 access and improving the affordability, availability, and quality
13 of health care in this state, including by improving population
14 health in this state.

15 (b) The center shall serve as the administrator of the
16 database, design, build, and secure the database infrastructure,
17 and determine the accuracy of the data submitted for inclusion in
18 the database.

19 (c) In determining the information a payor is required to
20 submit to the center under this subchapter, the center must
21 consider requiring inclusion of information useful to health policy
22 makers, employers, and consumers for purposes of improving health
23 care quality and outcomes, improving population health, and
24 controlling health care costs. The required information at a
25 minimum must include the following information as it relates to all
26 health care services, supplies, and devices paid or otherwise
27 adjudicated by the payor:

28 (1) the name and National Provider Identifier, as
29 described in 45 C.F.R. Section 162.410, of each health care
30 provider paid by the payor;

31 (2) the claim line detail that documents the health

1 care services, supplies, or devices provided by the health care
2 provider;

3 (3) the amount of charges billed by the health care
4 provider and the payor's:

5 (A) allowed amount or contracted rate for the
6 health care services, supplies, or devices; and

7 (B) adjudicated claim amount for the health care
8 services, supplies, or devices;

9 (4) the name of the payor, the name of the health
10 benefit plan, and the type of health benefit plan, including
11 whether health care services, supplies, or devices were provided to
12 an individual through:

13 (A) a Medicaid or Medicare program;

14 (B) workers' compensation insurance;

15 (C) a health maintenance organization operating
16 under Chapter 843;

17 (D) a preferred provider benefit plan offered by
18 an insurer under Chapter 1301;

19 (E) a basic coverage plan under Chapter 1551;

20 (F) a basic plan under Chapter 1575;

21 (G) a primary care coverage plan under Chapter
22 1579; or

23 (H) a health benefit plan that is subject to the
24 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
25 1001 et seq.); and

26 (5) claim level information that allows the center to
27 identify the geozip where the health care services, supplies, or
28 devices were provided.

29 (d) Each payor shall submit the required data under
30 Subsection (c) at a schedule and frequency determined by the center
31 and adopted by the commissioner by rule.

1 (e) In the manner and subject to the standards,
2 requirements, policies, and procedures relating to the use of data
3 contained in the database established by the center in consultation
4 with the stakeholder advisory group, the center may use the data
5 contained in the database for a noncommercial purpose:

6 (1) to produce statewide, regional, and geozip
7 consumer reports available through the public access portal
8 described in Section 38.405 that address:

9 (A) health care costs, quality, utilization,
10 outcomes, and disparities;

11 (B) population health; or

12 (C) the availability of health care services; and

13 (2) for research and other analysis conducted by the
14 center or a qualified research entity to the extent that such use is
15 consistent with all applicable federal and state law, including the
16 data privacy and security requirements of Section 38.406 and the
17 purposes of this subchapter.

18 (f) The center shall establish data collection procedures
19 and evaluate and update data collection procedures established
20 under this section. The center shall test the quality of data
21 collected by and reported to the center under this section to ensure
22 that the data is accurate, reliable, and complete.

23 Sec. 38.405. PUBLIC ACCESS PORTAL. (a) Except as provided
24 by this section and Sections 38.404 and 38.406 and in a manner
25 consistent with all applicable federal and state law, the center
26 shall collect, compile, and analyze data submitted to or stored in
27 the database and disseminate the information described in Section
28 38.404(e)(1) in a format that allows the public to easily access and
29 navigate the information. The information must be accessible
30 through an open access Internet portal that may be accessed by the
31 public through an Internet website.

1 (b) The portal created under this section must allow the
2 public to easily search and retrieve the information disseminated
3 under Subsection (a), subject to data privacy and security
4 restrictions described in this subchapter and consistent with all
5 applicable federal and state law.

6 (c) Any information or data that is accessible through the
7 portal created under this section:

8 (1) must be segmented by type of insurance or health
9 benefit plan in a manner that does not combine payment rates
10 relating to different types of insurance or health benefit plans;

11 (2) must be aggregated by like Current Procedural
12 Terminology codes and health care services in a statewide,
13 regional, or geozip area; and

14 (3) may not identify a specific patient, health care
15 provider, health benefit plan, health benefit plan issuer, or other
16 payor.

17 (d) Before making information or data accessible through
18 the portal, the center shall remove any data or information that may
19 identify a specific patient in accordance with the
20 de-identification standards described in 45 C.F.R. Section
21 164.514.

22 Sec. 38.406. DATA PRIVACY AND SECURITY. (a) Any
23 information that may identify a patient, health care provider,
24 health benefit plan, health benefit plan issuer, or other payor is
25 confidential and subject to applicable state and federal law
26 relating to records privacy and protected health information,
27 including Chapter 181, Health and Safety Code, and is not subject to
28 disclosure under Chapter 552, Government Code.

29 (b) A qualified research entity with access to data or
30 information that is contained in the database but not accessible
31 through the portal described in Section 38.405:

1 (1) may use information contained in the database only
2 for purposes consistent with the purposes of this subchapter and
3 must use the information in accordance with standards,
4 requirements, policies, and procedures established by the center in
5 consultation with the stakeholder advisory group;

6 (2) may not sell or share any information contained in
7 the database; and

8 (3) may not use the information contained in the
9 database for a commercial purpose.

10 (c) A qualified research entity with access to information
11 that is contained in the database but not accessible through the
12 portal must execute an agreement with the center relating to the
13 qualified research entity's compliance with the requirements of
14 Subsections (a) and (b), including the confidentiality of
15 information contained in the database but not accessible through
16 the portal.

17 (d) Notwithstanding any provision of this subchapter, the
18 department and the center may not disclose an individual's
19 protected health information in violation of any state or federal
20 law.

21 (e) The center shall include in the database only the
22 minimum amount of protected health information identifiers
23 necessary to link public and private data sources and the
24 geographic and services data to undertake studies.

25 (f) The center shall maintain protected health information
26 identifiers collected under this subchapter but excluded from the
27 database under Subsection (e) in a separate database. The separate
28 database may not be aggregated with any other information and must
29 use a proxy or encrypted record identifier for analysis.

30 Sec. 38.407. CERTAIN ENTITIES NOT REQUIRED TO SUBMIT DATA.
31 Any sponsor or administrator of a health benefit plan subject to the

1 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
2 1001 et seq.) may elect or decline to participate in or submit data
3 to the center for inclusion in the database as consistent with
4 federal law.

5 Sec. 38.408. REPORT TO LEGISLATURE. Not later than
6 September 1 of each even-numbered year, the center shall submit to
7 the legislature a written report containing:

8 (1) an analysis of the data submitted to the center for
9 use in the database;

10 (2) information regarding the submission of data to
11 the center for use in the database and the maintenance, analysis,
12 and use of the data;

13 (3) recommendations from the center, in consultation
14 with the stakeholder advisory group, to further improve the
15 transparency, cost-effectiveness, accessibility, and quality of
16 health care in this state; and

17 (4) an analysis of the trends of health care
18 affordability, availability, quality, and utilization.

19 Sec. 38.409. RULES. (a) The commissioner, in consultation
20 with the center, shall adopt rules:

21 (1) specifying the types of data a payor is required to
22 provide to the center under Section 38.404 to determine health
23 benefits costs and other reporting metrics, including, if
24 necessary, types of data not expressly identified in that section;

25 (2) specifying the schedule, frequency, and manner in
26 which a payor must provide data to the center under Section 38.404,
27 which must:

28 (A) require the payor to provide data to the
29 center not less frequently than quarterly; and

30 (B) include provisions relating to data layout,
31 data governance, historical data, data submission, use and sharing,

1 information security, and privacy protection in data submissions;
2 and

3 (3) establishing oversight and enforcement mechanisms
4 to ensure that payors submit data to the database in accordance with
5 this subchapter.

6 (b) In adopting rules governing methods for data
7 submission, the commissioner shall to the maximum extent
8 practicable use methods that are reasonable and cost-effective for
9 payors.

10 SECTION 2. (a) Not later than January 1, 2022, the Center
11 for Healthcare Data at The University of Texas Health Science
12 Center at Houston shall establish the stakeholder advisory group in
13 accordance with Section 38.403, Insurance Code, as added by this
14 Act.

15 (b) Not later than June 1, 2022, the Texas Department of
16 Insurance shall adopt rules, and the Center for Healthcare Data at
17 The University of Texas Health Science Center at Houston shall
18 adopt, in consultation with the stakeholder advisory group,
19 standards, requirements, policies, and procedures, necessary to
20 implement Subchapter I, Chapter 38, Insurance Code, as added by
21 this Act.

22 SECTION 3. As soon as practicable after the effective date
23 of this Act, the Center for Healthcare Data at The University of
24 Texas Health Science Center at Houston shall actively seek
25 financial support from the federal grant program for development of
26 state all payer claims databases established under the Consolidated
27 Appropriations Act, 2021 (Pub. L. No. 116-260) and from any other
28 available source of financial support provided by the federal
29 government for purposes of implementing Subchapter I, Chapter 38,
30 Insurance Code, as added by this Act.

31 SECTION 4. If before implementing any provision of

1 Subchapter I, Chapter 38, Insurance Code, as added by this Act, the
2 commissioner of insurance determines that a waiver or authorization
3 from a federal agency is necessary for implementation of that
4 provision, the commissioner shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 5. This Act takes effect September 1, 2021.