

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 94  
By: Hinojosa et al.  
Business & Commerce  
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As Filed

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

Section 1213.005 (Certain Charges Prohibited), Insurance Code, prohibits a health benefit plan and the entities administering plan benefits on their behalf from charging a fee for the submission and adjudication of a health care claim. This section of the code was enacted in 2005.

Health benefit plans contract with pharmacy benefit managers (PBMs) to process prescription claims for pharmacists. PBMs have been requiring pharmacies to pay a fee for each health care claim that is submitted electronically. In doing so, PBMs have been in violation of the Insurance Code, and as a result, have been unjustly enriched for the last nine years at the expense of Texas pharmacies and our citizens. PBMs contend that since they are acting on behalf of a health benefit plan, they have the authority to charge such fees. PBMs have found loopholes in the statute and have implemented creative coding so that it looks as if the PBM is not adjudicating a claim. The Texas Department of Insurance reported these issues while they were investigating complaints that were filed after last session.

S.B. 94 amends the Insurance Code to prohibit a PBM from charging a fee to a pharmacist, directly or indirectly, for any part of the claim adjudication process.

As proposed, S.B. 94 amends current law relating to certain fees charged for the adjudication of pharmacy benefit claims.

### **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 Chapter 1369, Insurance Code, by adding Subchapter I, as follows:

#### **SUBCHAPTER I. PHARMACY BENEFIT CLAIM ADJUDICATION**

Sec. 1369.401. DEFINITION. Defines "pharmacy benefit manager."

Sec. 1369.402. CERTAIN FEES PROHIBITED. Prohibits a health benefit plan issuer or a pharmacy benefit manager from directly or indirectly charging or holding a pharmacist or pharmacy responsible for a fee for any step of or component or mechanism related to the claim adjudication process, including:

- (1) the adjudication of a pharmacy benefit claim;
- (2) the processing or transmission of a pharmacy benefit claim;
- (3) the development or management of a claim processing or adjudication network; or

(4) participation in a claim processing or adjudication network.

SECTION 2. Provides that the change in law made by this Act does not affect the terms of a contract, if any, entered into or renewed before the effective date of this Act, until a renewal of the contract that occurs on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2015.