

BILL ANALYSIS

Senate Research Center
85R20945 JG-F

C.S.H.B. 2379
By: Price et al. (Hinojosa)
Health & Human Services
5/3/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. amends current law relating to the functions and administration of the Health and Human Services Commission and the commission's office of inspector general in relation to fraud, waste, and abuse in health and human services.

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 531.102, Government Code, by amending Subsections (a-3), (a-6), (j), and (k) and adding Subsections (a-7) and (a-8), as follows:

(a-3) Provides that the executive commissioner of the Texas Health and Human Services Commission (executive commissioner; HHSC) is responsible for performing certain administrative support services functions necessary to support HHSC's office of inspector general (HHSC OIG), including, subject to Subsection (a-8), legal services.

(a-6) Requires HHSC OIG to conduct audits, inspections, and investigations, rather than conduct investigations, independent of the executive commissioner and HHSC in a certain manner.

(a-7) Provides that the chief counsel for HHSC is the final authority for all legal interpretations related to statutes, rules, and HHSC policy on programs administered by HHSC.

(a-8) Defines "legal services" to include, for purposes of Subsection (a-3), only legal services related to open records, procurement, contracting, human resources, privacy, litigation support by the Texas attorney general (attorney general), bankruptcy, and other legal services as detailed in the memorandum of understanding or other written agreement required under Section 531.00553 (Criminal Background Checks), as added by Chapter 837 (S.B.) 200, Acts of the 84th Legislature, Regular Session, 2015.

(j) Requires HHSC OIG to prepare a final report on each audit, inspection, or investigation, rather than each audit or investigation, conducted under this section. Makes conforming changes.

(k) Makes conforming changes.

SECTION 2. Amends Section 531.1021(g), Government Code, to make conforming changes.

SECTION 3. Amends the heading to Section 531.106, Government Code, to read as follows:

Sec. 531.106. LEARNING, NEURAL NETWORK, OR OTHER TECHNOLOGY.

SECTION 4. Amends Sections 531.106(a), (c), and (g), Government Code, as follows:

(a) Requires HHSC to use learning, neural network, or other technology to identify and deter fraud in Medicaid throughout this state.

(c) Requires that the data used for data processing, rather than for neural network processing, be maintained as an independent subset for security purposes.

(g) Requires that the technology, rather than the learning or neural network technology, implemented under this section match vital statistics unit death records with Medicaid claims filed by a provider.

SECTION 5. Amends Section 531.1061(b), Government Code, to make conforming changes.

SECTION 6. Amends Section 531.1131, Government Code, by amending Subsections (a), (b), and (c) and adding Subsections (c-1), (c-2), and (c-3), as follows:

(a) Provides that, if a managed care organization, rather than a managed care organization's special investigative unit under Section 531.113(a)(1) (relating to requiring certain managed care organizations to establish and maintain a special investigative unit), or a certain other entity discovers fraud or abuse in Medicaid or the child health program, the organization, rather than unit, is required to:

(1) immediately submit written notice to, rather than immediately and contemporaneously notify, HHSC OIG and the office of the attorney general in the form and manner prescribed by HHSC OIG and containing a detailed description of the fraud or abuse and each payment made to a provider as a result of the fraud or abuse;

(2) and (3) makes no changes to these subdivisions.

(b) Makes conforming and nonsubstantive changes.

(c) Authorizes a managed care organization to retain one-half of any money, rather than any money, recovered under Subsection (a)(2) (relating to requiring a managed care organization or contracted entity to begin payment recovery efforts) by the organization, rather than the organization's special investigative unit, or the contracted entity described by Subsection (a). Requires the managed care organization to remit the remaining amount of money recovered under Subsection (a)(2) to HHSC OIG for deposit to the credit of the general revenue fund (GR fund).

(c-1) Provides that if HHSC OIG notifies a managed care organization under Subsection (b) (relating to prohibiting certain actions by a managed care organization or contracted entity upon certain notice), proceeds with recovery efforts, and recovers all or part of the payments the organization identified as required by Subsection (a)(1), the organization is entitled to one-half of the amount recovered for each payment the organization identified after any applicable federal share is deducted. Prohibits the organization from receiving more than one-half of the total amount of money recovered after any applicable federal share is deducted.

(c-2) Authorizes HHSC OIG, notwithstanding any provision of this section, if HHSC OIG discovers fraud, waste, or abuse in the Medicaid or the child health plan program in the performance of its duties, to recover payments made to a provider as a result of the fraud, waste, or abuse as otherwise provided by this subchapter (Medicaid and Other Health and Human Services Fraud, Abuse, and Overcharges). Requires that all payments recovered by HHSC OIG under this subsection be deposited to the credit of the GR fund.

(c-3) Requires HHSC OIG to coordinate with appropriate managed care organizations to ensure that HHSC OIG and an organization or an entity with which an organization contracts under Section 531.113(a)(2) do not both begin payment recovery efforts under this section for the same case of fraud, waste, or abuse.

SECTION 7. Makes application of Section 531.1131, Government Code, as amended by this Act, prospective.

SECTION 8. 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 9. Effective date: upon passage or September 1, 2017.