BILL ANALYSIS

Senate Research Center

H.B. 3218
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, health insurance companies can, under Texas Insurance Code, enter into a contract with a pharmacy benefit manager (PBM), who works with drug distributors and a network of pharmacies to negotiate more affordable rates when providing prescription drug benefits to its policyholders. This allows for a greater number of people to access quality health care at a lower cost than they otherwise would have. Health maintenance organizations (HMOs) are organizations that provide health coverage with providers under contract. HMOs differ from traditional health insurance because HMOs directly contract with their providers and do not provide any coverage outside of their network. HMOs have also been taking part in the common practice of contracting with PBMs for over a decade, providing quality care at a lower cost.

Recently, the Texas Department of Insurance (TDI) ruled that HMOs are not allowed to enter into a contract with PBMs due to the Insurance Code's failure to expressly grant this permission. Losing this ability will pose significant financial burdens on HMOs and ultimately their members, as the network created by PBMs allows for competition and the negotiation of prices. This problem creates a huge barrier for new plans entering the market, stifles business, and puts the STAR Kids Medicaid managed care program, which serves the most vulnerable Medicaid population (children with disabilities), at risk by skyrocketing covered drug costs.

H.B. 3218 addresses TDI's concerns by amending the Insurance Code to allow an HMO to enter into a contract with a PBM. It also clarifies that HMOs are not subject to the same laws as health insurance companies, drawing an already agreed-upon distinction between HMOs and delegated entities.

H.B. 3218 amends current law relating to health maintenance organization contracts with certain entities to provide health care 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 843.101, Insurance Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

> (b) Authorizes a health maintenance organization (HMO) to provide or arrange for health care services only through providers or groups of providers who are under contract with an entity that is under contract with the HMO to provide a network of providers to provide health care services only if the contract between the entity and the HMO does not limit the HMO's authority or responsibility, including financial responsibility, to comply with any regulatory requirement that applies to a function performed by the entity, requires the entity to comply with all regulatory requirements that apply to a function performed by the entity, and expressly sets forth the requirements of Subparagraphs (i) (relating to certain contracts between an HMO and entity) and (ii) (relating to requiring an entity to be in compliance with certain regulatory requirements).

(b-1) Provides that, except as provided by Subsection (b-2) and notwithstanding any other law, an entity described by Subsection (b)(2)(B) (relating to authorizing an HMO to provide or arrange health care services only through certain providers who are under a certain contract with an entity that is under contract with an HMO) and the HMO with which the entity contracts are subject to Chapter 1272 (Delegation of Certain Functions by Health Maintenance Organization) as if the entity were a delegated entity unless the entity:

(1) is a delegated network or delegated third party as defined by Section 1272.001 (Definitions); or

(2) is not a delegated entity as provided by Sections 1272.001(a)(1)(A) (relating to the definition of "delegated entity" including an individual physician) or (B) (relating to the definition of "delegated entity" including a group of physicians under one federal tax identification number).

(b-2) Provides that an entity subject to Chapter 1272 under Subsection (b-1) that does not assume risk and the HMO with which the entity contracts are not subject to certain provisions.

SECTION 2. Effective date: September 1, 2017.