

## **BILL ANALYSIS**

Senate Research Center

H.B. 3675  
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Health & Human Services  
7/28/2017  
Enrolled

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

Current statute already requires that medical managed care organizations (MCOs) allow their enrollees to seek care at a network ophthalmologist or optometrist, for non-surgical eye care, without the requirement of a referral or prior authorization. This allows for timely care, improved patient outcomes and cost savings. However, there are cases of MCOs requiring eye doctors to obtain prior authorization to provide these covered eye care services to their patients, circumventing the intent of the statute.

When an eye care practice hires an eye doctor, due to market demands, the new associate doctor should be able to provide care to the patients of that practice, if he/she meets the credentialing requirements and agrees to the MCO's contract terms. This opportunity is available in the private insurance market, but not in the Medicaid managed care market. This is a hardship to many eye care practices and a barrier to care for enrollees.

Also, institutions of higher learning with accredited ophthalmology or optometry training programs commonly serve patients covered by MCOs. The faculty eye doctors should be allowed to care for these patients. When MCOs deny these institutions the ability to become network providers, patient care is compromised and clinical training for our future doctors is negatively affected.

H.B. 3675 clarifies that patients covered by a Medicaid MCO have direct access to ophthalmologists and optometrists for non-surgical eye care services, without any need for the provider or the patient to obtain prior authorization for those services.

H.B. 3675 clarifies that an ophthalmologist or an optometrist who joins an established practice may become a network provider for the MCOs that the practice already has a valid contract with. H.B. 3675 also allows institutions of higher learning with accredited ophthalmology or optometry training programs to contract with MCOs as network providers.

H.B. 3675 amends current law relating to the provision of eye health care by certain professionals and institutions as providers in 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 32.072(a), Human Resources Code, as follows:

(a) Provides that, notwithstanding any other law, a recipient of medical assistance is entitled to:

(1) select an ophthalmologist or therapeutic optometrist who is a medical assistance provider to provide eye health care services, other than surgery, that are within the scope of the professional specialty practice for which the

ophthalmologist or therapeutic optometrist is licensed, rather than for which the ophthalmologist or therapeutic optometrist is licensed and credentialed; and

(2) have direct access to the selected ophthalmologist or therapeutic optometrist for the provision of the nonsurgical services without any requirement that the patient or ophthalmologist or therapeutic optometrist obtain a certain authorization, rather than for the provision of the nonsurgical services without any requirement to obtain a certain authorization.

SECTION 2. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.021191, as follows:

Sec. 531.021191. MEDICAID ENROLLMENT OF CERTAIN EYE HEALTH CARE PROVIDERS. (a) Provides that this section applies only to:

- (1) an optometrist who is licensed by the Texas Optometry Board (TOB);
- (2) a therapeutic optometrist who is licensed by TOB;
- (3) an ophthalmologist who is licensed by the Texas Medical Board; and
- (4) an institution of higher education (IHE) that provides an accredited program for training as a Doctor of Optometry or an optometrist residency or for training as an ophthalmologist or an ophthalmologist residency.

(b) Prohibits the Health and Human Services Commission (HHSC) from preventing a provider to whom this section applies from enrolling as a Medicaid provider if the provider:

- (1) either joins an established practice of a health care provider or provider group that has a contract with a managed care organization (MCO) to provide health care services to recipients under Chapter 533 (Medicaid Managed Care Program) or is employed by or otherwise compensated for providing training at an IHE described by Subsection (a)(4);
- (2) applies to be an enrolled provider under Medicaid;
- (3) if applicable, complies with the requirements of the contract between the provider or the provider's group and the applicable MCO; and
- (4) complies with all other applicable requirements related to being a Medicaid provider.

(c) Prohibits HHSC from preventing an IHE from enrolling as a Medicaid provider if the IHE:

- (1) has a contract with an MCO to provide health care services to recipients under Chapter 533;
- (2) applies to be an enrolled provider under Medicaid;
- (3) complies with the requirements of the contract between the provider and the applicable MCO; and
- (4) complies with all other applicable requirements related to being a Medicaid provider.

SECTION 3. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0067, as follows:

Sec. 533.0067. EYE HEALTH CARE SERVICE PROVIDERS. Requires HHSC, subject to Section 32.047 (Prohibition of Certain Health Care Service Providers), Human Resources Code, but notwithstanding any other law, to require that each MCO that contracts with HHSC under any Medicaid managed care model or arrangement to provide health care services to recipients in a region include in the MCO's provider network each optometrist, therapeutic optometrist, and ophthalmologist described by Section 531.021191(b)(1)(A) or (B) and an IHE described by Section 531.021191(a)(4) in the region who:

- (1) agrees to comply with the terms and conditions of the MCO;
- (2) agrees to accept the prevailing provider contract rate of the MCO;
- (3) agrees to abide by the standards of care required by the MCO; and
- (4) is an enrolled provider under Medicaid.

SECTION 4. (a) Requires HHSC to, in a contract between HHSC and a Medicaid MCO under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, require that the MCO comply with Section 533.0067, Government Code, as added by this Act.

(b) Requires HHSC to seek to amend each contract entered into with an MCO under Chapter 533, Government Code, before the effective date of this Act to require those MCOs to comply with Section 533.0067, Government Code, as added by this Act. Provides that, to the extent of a conflict between Section 533.0067, Government Code, as added by this Act, and a provision of a contract with an MCO entered into before the effective date of this Act, the contract provision prevails.

SECTION 5. Prohibits this Act from being construed as authorizing or requiring implementation of Medicaid managed care delivery models in regions in this state in which those models are not used on the effective date of this Act for the delivery of Medicaid services.

SECTION 6. 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 delay of implementation until such a waiver or authorization is granted.

SECTION 7. Effective date: September 1, 2017.