

BILL ANALYSIS

Senate Research Center
85R23335 SMT-F

C.S.S.B. 1413
By: Schwertner
Business & Commerce
4/18/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, health insurance companies can, under the 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 management organizations (HMOs) are organizations that provide health coverage with providers under contract. HMOs differ from traditional health insurance because the HMO directly contracts with its providers and does not provide any coverage outside of its 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.

S.B. 1413 addresses TDI's concerns by amending the Insurance Code to allow an HMO to enter into a contract with a PBM. S.B. 1413 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. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1413 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:

(1) other HMOs;

(2) providers or groups of providers who are:

(A) creates this paragraph from existing text and makes a nonsubstantive change;

(B) 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 HMO:

(i) 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;

(ii) requires the entity to comply with all regulatory requirements that apply to a function performed by the entity; and

(iii) expressly sets forth the requirements of Subparagraphs (i) and (ii); or

(3) additional HMOs or physicians or providers who have contracted for health care services with the other HMOs, physicians with whom the HMO has contracted, or providers who are under contract with or are employed by the HMO.

(b-1) Provides that, except as provided by Subsection (b-2) and notwithstanding any other law, an entity described by Subsection (b)(2)(B) 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 Section 1272.001(a)(1)(A) (relating to the definition of "delegated entity" not including an individual physician) or (B) (relating to the definition of "delegated entity" not including a group of employed physicians, practicing 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 the following provisions:

(1) Section 1272.053(1) (relating to requiring a delegation agreement to establish a monitoring plan that allow a HMO to monitor compliance with certain minimum solvency requirements);

(2) Section 1272.057(1) (relating to requiring a delegation agreement to permit the commissioner of insurance to examine certain information relevant to the financial solvency of an entity);

(3) Section 1272.061(1)(C) (relating to the provision that the HMO is not precluded from requesting certain proof of financial viability); and

(4) Subchapter D (Reserve Requirements), Chapter 1272.

SECTION 2. Effective date: January 1, 2018.