# BILL ANALYSIS

Senate Research Center

S.B. 2138
By: Hinojosa
Health & Human Services
6/12/2019
Enrolled

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

The Health and Human Services Commission (HHSC) administers numerous supplemental payment programs, including Section 1115 waiver and direct payment programs. HHSC uses general revenue to fund the state's share of administrative costs to operate the programs.

Together, these programs represent approximately $8.5 billion of funding for the state's Medicaid providers, mainly hospitals. However, HHSC only has the resources to allocate about 45 employees to the administration of these programs, and most of those are diverted from other programs. In order to ensure that HHSC has the staff necessary to provide the appropriate oversight of these critical programs, S.B. 2138 would allow for HHSC to retain up to 1 percent of funds from the programs to be used for administration. (Original Author's/Sponsor's Statement of Intent)

S.B. 2138 amends current law relating to the administration and operation of Medicaid.

## RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 531.021135, Government Code) of this bill.

## SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.021135, as follows:

Sec. 531.021135. COMMISSION'S AUTHORITY TO RETAIN CERTAIN MONEY TO ADMINISTER CERTAIN MEDICAID PROGRAMS; REPORT REQUIRED. (a) Defines "directed payment program."

(b) Provides that this section applies only to money the Health and Human Services Commission (HHSC) receives from a source other than the general revenue fund to operate a waiver program established under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) or a directed payment program or successor program as determined by HHSC.

(c) Authorizes HHSC, subject to Subsection (e), to retain from money to which this section applies an amount equal to the estimated costs necessary to administer the program for which the money is received, but not to exceed $8 million for a state fiscal year.

(d) Requires HHSC to spend money retained under this section to assist in paying the costs necessary to administer the program for which the money is received, except that HHSC is prohibited from using the money to pay any type of administrative cost that, before June 1, 2019, was funded with general revenue.

(e) Authorizes HHSC, if HHSC determines that HHSC needs additional money to administer a program described by Subsection (b), to retain an additional amount

with the approval of the governor and the Legislative Budget Board (LBB), but not to exceed a total retained amount equal to 0.25 percent of the total amount estimated to be received for the program.

(f) Requires HHSC to submit an annual report to the governor and the LBB that:

(1) details the amount of money retained and spent by HHSC under this section during the preceding state fiscal year, including a separate detail of any increase in the amount of money retained for a program under Subsection (e);

(2) contains a transparent description of how HHSC used the money described by Subdivision (1); and

(3) assesses the extent to which the money retained by HHSC under this section covered the estimated costs to administer the applicable program and states whether, based on that assessment, HHSC adjusted or considered adjustments to the amount retained.

(g) Requires the executive commissioner of HHSC to adopt rules necessary to implement this section.

SECTION 2. Amends Section 531.1023, Government Code, as follows:

Sec. 531.1023. COMPLIANCE WITH FEDERAL CODING GUIDELINES. (a) Creates this subsection from existing text. Requires certain parties, including HHSC's medical and utilization review appeals unit, to comply with federal coding guidelines, including guidelines for diagnosis-related group validation and related audits.

(b) Defines "federal coding guidelines" for purposes of this section.

SECTION 3. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0031, as follows:

Sec. 533.0031. MEDICAID MANAGED CARE PLAN ACCREDITATION. (a) Requires a managed care plan offered by a Medicaid managed care organization to be accredited by a nationally recognized accreditation organization. Authorizes HHSC to choose whether to require all managed care plans offered by Medicaid managed care organizations to be accredited by the same organization or to allow for accreditation by different organizations.

(b) Authorizes HHSC to use the data, scoring, and other information provided to or received from an accreditation organization in HHSC’s contract oversight processes.

SECTION 4. Requires HHSC to require that a managed care plan offered by a Medicaid managed care organization with which HHSC enters into or renews a contract under Chapter 533 (Medicaid Managed Care Program), Government Code, on or after the effective date of this Act complies with Section 533.0031, Government Code, as added by this Act, not later than September 1, 2022.

SECTION 5. Requires a state agency affected by any provision of this Act, if necessary for implementation of the provision, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such waiver or authorization is granted.

SECTION 6. Effective date: upon passage or September 1, 2019.