

BILL ANALYSIS

Senate Research Center
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S.B. 1328
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1328 makes changes to the Texas Health and Safety Code to both expand the flexibility of all Local Provider Participation Funds (LPPFs) and make targeted changes to three LPPFs.

Specifically, S.B. 1328 makes three changes. First, it allows all LPPFs to use any basis permitted by federal law to compute mandatory payments (rather than limiting LPPFs to only computing mandatory payments based on net patient revenue). Second, it allows all LPPFs to require and use alternative documentation if the existing documentation is "insufficient for a local government to assure that all institutional health care providers are assessed a mandatory payment that is consistent with this subtitle and federal law." Third, it provides that if federal law changes in ways that impact LPPFs, LPPFs can work with the Health and Human Services Commission to request waivers of the broad-based and uniform application requirements.

The bill also extends the expiration of the Nueces County Hospital District and Harris County Hospital District LPPFs for two years, until December 31, 2023. The legislation allows the Central Health (Travis County Hospital District) LPPF to use LPPF funds to fund Medicaid disproportionate share hospital payments and increases the limit on mandatory payments in the Harris County Hospital District LPPF from four percent of aggregate net patient revenue to six percent.

As proposed, S.B. 1328 amends current law relating to the operation of certain health care provider participation programs in this state.

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 Subtitle D, Title 4, Health and Safety Code, by adding Chapter 300B, as follows:

CHAPTER 300B. PROVISIONS GENERALLY APPLICABLE TO HEALTH CARE PROVIDER PARTICIPATION PROGRAMS

Sec. 300B.0001. DEFINITION. Defines "qualifying local government."

Sec. 300B.0002. APPLICABILITY. Provides that this chapter applies only to a hospital district that is participating in a health care provider participation program authorized by another chapter of Subtitle D (Hospital Districts), and a county, municipality, or health care funding district established under Chapter 288 (Health Care Funding Districts in Certain Counties Located on Texas-Mexico Border) that is participating in a health care provider participation program authorized by another chapter of Subtitle D, and that is not served by a hospital district or a public hospital.

Sec. 300B.0003. CONFLICT OF LAWS. Provides that this chapter prevails over another provision of Subtitle D to the extent of any conflict.

Sec. 300B.0004. ASSESSMENT BASIS. (a) Authorizes the governing body of a qualifying local government to require mandatory payments to be assessed against each institutional health care provider located in the qualifying local government on the basis of a health care item, health care service, or other health care-related basis that is consistent with the requirements of 42 U.S.C. Section 1396b(w) and 42 C.F.R. Section 433.68.

(b) Provides that a qualifying local government that requires mandatory payments to be assessed in the manner provided by this section is not required to assess mandatory payments on the net patient revenue of each institutional health care provider located in the qualifying local government.

Sec. 300B.0005. ADDITIONAL REPORTING. Authorizes the governing body of a qualifying local government that is unable to assess mandatory payments in a manner consistent with the requirements of 42 U.S.C. Section 1396b(w) and 42 C.F.R. Section 433.68 using information reported to the governing body by an institutional health care provider to require the institutional health care provider to submit additional information to the governing body if the information is necessary to ensure mandatory payments are assessed in a manner consistent with those requirements.

Sec. 300B.0006. WAIVER REQUEST. (a) Authorizes the governing body of a qualifying local government, subject to Subsection (b), to request the Health and Human Services Commission (HHSC) to submit on the governing body's behalf a request to the Centers for Medicare and Medicaid Services for a waiver of any provision of federal law that relates to the operation of a health care provider participation program, and that requires mandatory payments to be assessed on each institutional health care provider located in the qualifying local government, or the amount of a mandatory payment to be uniformly proportionate with the amount of net patient revenue of the institutional health care provider against which the payment is assessed.

(b) Authorizes the governing body of a qualifying local government to submit a request under Subsection (a) only if:

(1) federal law is amended by the United States Congress or interpreted by the Centers for Medicare and Medicaid Services in a manner that impedes the operation of the health care provider participation program authorized by the qualifying local government;

(2) the governing body of the qualifying local government determines that the waiver would wholly or partly remove the impediment described by Subdivision (1); and

(3) the Centers for Medicare and Medicaid Services are authorized by law to grant the waiver.

(c) Requires HHSC, if the governing body of a qualifying local government submits a request under Subsection (a) to HHSC, to submit a request for a waiver on behalf of the qualifying local government to the Centers for Medicare and Medicaid Services. Requires HHSC to include with the waiver request any supporting documentation provided by the governing body of the qualifying local government.

(d) Provides that if the waiver is granted by the Centers for Medicare and Medicaid Services, the governing body of the qualifying local government is not required to comply with any provision of Subtitle D or other law that imposes a requirement that is substantially equivalent to a requirement that is the subject of the waiver during the period for which the waiver is in effect.

SECTION 2. Amends Section 298C.004, Health and Safety Code, as added by Chapter 694 (S.B. 2315), Acts of the 86th Legislature, Regular Session, 2019, to provide that the authority of the Nueces County Hospital District to administer and operate a program under Chapter 298C (Nueces County Hospital District Health Care Provider Participation Program) expires December 31, 2023, rather than December 21, 2021, and that Chapter 298C expires December 31, 2023, rather than December 21, 2021.

SECTION 3. Amends Section 298E.103(e), Health and Safety Code, to delete existing text prohibiting funds from an intergovernmental transfer of funds described by Subsection (c)(1) (relating to using money deposited to the local provider participation fund of a district to fund intergovernmental transfers) from being used by the state, district, or any other entity to fund the nonfederal share of payments to hospitals available through the Medicaid disproportionate share hospital program.

SECTION 4. Amends Section 299.004, Health and Safety Code, to provide that the authority of the Harris County Hospital District (district) to administer and operate a program under Chapter 299 (Harris County Hospital District Health Care Provider Participation Program) expires December 31, 2023, rather than December 21, 2021, and that Chapter 299 expires December 31, 2023, rather than December 21, 2021.

SECTION 5. Amends Section 299.151(c), Health and Safety Code, to prohibit the aggregate amount of the mandatory payments required of all paying providers in the district from exceeding six percent, rather than four percent, of the aggregate net patient revenue from hospital services provided by all paying providers in the district.

SECTION 6. Repealer: Chapter 289 (County Health Care Funding Districts in Certain Counties Located on Texas-Mexico Border That Have Population of Less Than 300,000), Health and Safety Code.

Repealer: Chapter 290 (County Health Care Funding Districts in Certain Counties With Population of 1.8 Million or Less), Health and Safety Code.

SECTION 7. Effective date: upon passage or September 1, 2021.