

BILL ANALYSIS

Senate Research Center
87R6484 SCL-F

S.B. 999
By: Hancock; Whitmire
Business & Commerce
3/19/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 86th Legislative Session, Texas passed S.B. 1264, which banned the practice of balance billing by health care providers and facilities for consumers in state regulated health plans, as well as claims under the administrated health maintenance organization (HMO) and preferred provider organization (PPO) plans for the Texas Employees Retirement System and Teacher Retirement System. Similarly, Congress passed the "No Surprises Act" at the end of 2020 banning the same balance bills for consumers covered by health plans not regulated by Texas. The federal law includes a prohibition on air ambulance balance billing in its consumer protections, but neither the Texas law nor the federal law include protection from ground ambulance balance billing. Nationally, 70 to 80 percent of ground ambulances have out-of-network billing rates.

Ground ambulance transportation (both facility to facility and emergency transport) remains one of the largest sources of surprise medical bills in Texas. Patients do not have a choice of an ambulance service provider either during emergencies or facility to facility transfer. As reported by the *Houston Chronicle*, one patient recovering from COVID-19 was transferred from an in-network hospital to an in-network rehabilitation facility by way of an out-of-network ambulance provider that he did not choose. The ride left him with over \$2,000 in balance bills. Texas should act immediately to protect consumers by applying the solutions developed in S.B. 1264 to ground ambulances.

C.S.S.B. 999 prohibits surprise ground ambulance billing of consumers by out-of-network providers and non-network providers. The bill requires health plans, including PPOs, exclusive provider organizations (EPOs), and HMOs, to reimburse claims at usual and customary amounts. The payment is sent directly to the provider within 30 days of an electronically submitted clean claim and within 45 days for a paper-submitted clean claim. At the same time the initial payment is sent, the insurer must send an explanation of benefit to the patient and the provider which itemizes the copay, coinsurance, and deductible for which the patient is liable and for which they may be billed. This explanation explains that they may not be billed and are not liable for an amount beyond the enumerated amounts. C.S.S.B. 999 maintains patients' responsibility for their applicable co-pay, coinsurance, and deductible amounts, and clarifies that a patient is not liable for any additional amounts after the insurer determines their cost-sharing.

The bill allows providers to dispute payment amounts through the existing mediation program at the Texas Department of Insurance (TDI). In an effort to settle the claim before mediation, all parties must participate in an informal settlement teleconference not later than the 30th day after mediation is requested. C.S.S.B. 999 allows for the license holder's regulatory agency to impose an administrative penalty against a licensee for failure to comply with the provisions of the mediation process or for failure to participate in good faith. If the regulatory agency finds a pattern of knowingly violating the provisions of this process, the regulatory agency, in addition to their administrative penalties, may refer the case to the Texas Attorney General who may file for an injunction against the licensee and may recover any costs and expenses related to the filing. The bill applies to state-regulated health maintenance organizations (HMO), exclusive provider organizations (EPO), and preferred provider organizations (PPO), as well as claims under the Texas Employees Retirement System and Teacher Retirement System plans which supply the health benefit coverage for current and retired employees of the state and of school districts respectively.

Currently, in the Texas Local Government Code, ground and air ambulance services owned by a county must attempt to recoup any and all monies owed for services the county provided. Counties resort to third-party debt collection services for unpaid bills. C.S.S.B. 999 would authorize counties to consider a health benefit plan payment toward a claim for air and ground ambulance services provided by the county as payment in full for those services. This does not apply to air ambulance service provided by a private actor via a contractual arrangement with a county.

As proposed, S.B. 999 amends current law relating to consumer protections against certain medical and health care billing by out-of-network ground ambulance service providers.

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 38.004(a), Insurance Code, as follows:

(a) Requires the Texas Department of Insurance (TDI), each biennium, to conduct a study on the impacts of S.B. No. 1264, Acts of the 86th Legislature, Regular Session, 2019, and subsequently enacted laws prohibiting an individual or entity from billing an insured, participant, or enrollee in an amount greater than an applicable copayment, coinsurance, or deductible under the insured's, participant's, or enrollee's managed care plan or imposing a requirement related to that prohibition, on Texas consumers and health coverage in this state, including certain information on ground ambulance services, among other health services.

SECTION 2. Amends the heading to Section 1271.158, Insurance Code, to read as follows:

Sec. 1271.158. CERTAIN NON-NETWORK ANCILLARY SERVICE PROVIDERS.

SECTION 3. Amends Sections 1271.158(a), (b), and (c), Insurance Code, as follows:

- (a) Defines "ground ambulance service provider." Makes nonsubstantive changes.
- (b) Requires a health maintenance organization to pay for certain covered health care services, including ground ambulance services.
- (c) Makes a conforming change.

SECTION 4. Amends the heading to Section 1301.165, Insurance Code, to read as follows:

Sec. 1301.165. CERTAIN OUT-OF-NETWORK ANCILLARY SERVICE PROVIDERS.

SECTION 5. Amends Sections 1301.165(a), (b), and (c), Insurance Code, as follows:

- (a) Defines "diagnostic imaging provider," "laboratory service provider," and "ground ambulance service provider."
- (b) Requires an insurer to pay for certain covered health care services, including ground ambulance services.
- (c) Makes a conforming change.

SECTION 6. Amends the heading to Section 1551.230, Insurance Code, to read as follows:

Sec. 1551.230. PAYMENTS TO CERTAIN OUT-OF-NETWORK ANCILLARY SERVICE PROVIDERS.

SECTION 7. Amends Sections 1551.230(a), (b), and (c), Insurance Code, as follows:

(a) Defines "diagnostic imaging provider," "laboratory service provider," and "ground ambulance service provider."

(b) Requires the administrator of a managed care plan provided under the Texas Employees Group Benefits Plan to pay for certain covered health care services, including ground ambulance services.

(c) Makes a conforming change.

SECTION 8. Amends the heading to Section 1575.173, Insurance Code, to read as follows:

Sec. 1575.173. PAYMENTS TO CERTAIN OUT-OF-NETWORK ANCILLARY SERVICE PROVIDERS.

SECTION 9. Amends Sections 1575.173(a), (b), and (c), Insurance Code, as follows:

(a) Defines "diagnostic imaging provider," "laboratory service provider," and "ground ambulance service provider."

(b) Requires the administrator of a managed care plan provided under the Texas Public School Employees Group Benefits Program to pay for certain covered health care services, including ground ambulance services.

(c) Makes a conforming change.

SECTION 10. Amends the heading to Section 1579.111, Insurance Code, to read as follows:

Sec. 1579.111. PAYMENTS TO CERTAIN OUT-OF-NETWORK ANCILLARY SERVICE PROVIDERS.

SECTION 11. Amends Sections 1579.111(a), (b), and (c), Insurance Code, as follows:

(a) Defines "diagnostic imaging provider," "laboratory service provider," and "ground ambulance service provider."

(b) Requires the administrator of a managed care plan provided under Texas School Employees Uniform Group Health Coverage to pay for certain covered health care services, including ground ambulance services.

(c) Makes a conforming change.

SECTION 12. Amends Section 1467.001, Insurance Code, by adding Subdivision (3-b) and amending Subdivisions (4) and (6-a), as follows:

(3-b) Redesignates existing Subdivision (4) as Subdivision (3-b) and makes no further changes.

(4) Defines "ground ambulance service provider" for Chapter 1467 (Out-of-Network Claim Dispute Resolution).

(6-a) Makes a conforming change to this subsection.

SECTION 13. Amends Section 1467.050(a), Insurance Code, to make a conforming change.

SECTION 14. Amends Section 1467.051(a), Insurance Code, as follows:

(a) Authorizes an out-of-network provider or a health benefit plan issuer or administrator to request mediation of a settlement of an out-of-network health benefit claim through a portal on TDI's Internet website if certain requirements are met, including that the health benefit claim is for certain services, including an out-of-network ground ambulance service. Makes nonsubstantive changes.

SECTION 15. Amends Section 1467.081, Insurance Code, to make a conforming change.

SECTION 16. Makes application of this Act prospective to January 1, 2022.

SECTION 17. Effective date: September 1, 2021.