# BILL ANALYSIS

Senate Research Center
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C.S.S.B. 894
By: Buckingham
Health & Human Services
3/20/2017
Committee Report (Substituted)

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

S.B. 894 addresses deficiencies that exist with the Health and Human Services Commission's (HHSC) audit coverage of Medicaid managed care organizations (MCOs).

HHSC relies on MCOs to deliver Medicaid services in the state. Currently, HHSC contracts with two audit firms to conduct periodic performance audits and annual agreed-upon procedures (AUP) engagements of MCOs. The purpose of these audits is to certify the accuracy of information the agency uses to determine MCO compliance with contract requirements. However, a report issued by the State Auditor's Office found HHSC consistently failed to effectively use the information gathered to appropriately monitor MCOs or address any of the major issues identified in the audit findings.

To address these inadequacies, S.B. 894 requires HHSC to implement a strategy for improving overall management of audit resources used to verify the accuracy of program and financial information reported by MCOs. It provides for a consistent, well-documented audit selection process to determine which MCO should receive a performance audit as well as to identify the scope and objectives of each audit. It also requires HHSC to establish policies to ensure MCOs have taken action to implement performance audit recommendations.

MCOs are required to issue experience rebates to HHSC based on the MCOs' profits earned through participation in the Medicaid managed care program. HHSC uses AUP engagements to determine MCO compliance with certain financial reporting requirements and help ensure the accuracy and completeness of experience rebates owed by MCOs. S.B. 894 enhances the utility of AUP engagements in order to more effectively identify financial risks and address performance or noncompliance issues.

Under the current system, each MCO contracts with a Pharmacy Benefits Manager (PBM) to provide prescription drug coverage for its members and reports on information regarding PBM compliance with state regulations. By requiring periodic audits of PBMs instead of relying on self-reported information provided by the MCOs, HHSC will obtain greater assurance that the MCOs' PBM contractors are in compliance with state laws in key areas such as pharmacy network adequacy and drug utilization. This shift will also strengthen HHSC's ability to ensure corrective actions are taken to resolve issues discovered through the auditing process.

Through the establishment of an improved billing system within its Medicaid/CHIP division, HHSC will ensure that it is effectively collecting reimbursements from MCOs for contracted audit services in a timely manner. Implementing a more efficient billing process will also improve HHSC's ability to effectively manage the experience rebates collected from MCOs.

S.B. 894 strengthens HHSC oversight by requiring information provided by its External Quality Review Organization, including member surveys and validated paid claims data, be actively used in monitoring MCOs.

Finally, S.B. 894 increases security over HHSC's IT services by strengthening user access controls within its accounts receivable system, requiring daily reconciliations of all agency accounts and ensuring proper documentation of programming changes.

The committee substitute for S.B. 894 makes clear that the provisions of the bill do not apply to the Office of Inspector General. It also eliminates any potential conflicts that may exist with MCOs conducting audits on PBM contractors by requiring that HHSC manage this responsibility.

C.S.S.B. 894 amends current law relating to the Health and Human Services Commission's strategy for managing audit resources, including procedures for auditing and collecting payments from Medicaid managed care organizations.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 533, Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. STRATEGY FOR MANAGING AUDIT RESOURCES

Sec. 533.051. DEFINITIONS. Defines "accounts receivable tracking system," "agreed-upon procedures engagement," "experience rebate," and "external quality review organization."

Sec. 533.052. APPLICABILITY AND CONSTRUCTION OF SUBCHAPTER. Provides that this subchapter does not apply to and prohibits this subchapter from being construed as affecting the conduct of audits by the Health and Human Services Commission's (HHSC) office of inspector general (HHSC OIG) under the authority provided by Subchapter C (Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges), Chapter 531 (Health and Human Services Commission), including an audit of a managed care organization (MCO) conducted by HHSC OIG after coordinating HHSC OIG's audit and oversight activities with HHSC as required by Section 531.102(q) (relating to HHSC OIG coordinating all audit and oversight activities with HHSC), as added by Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015.

Sec. 533.053. OVERALL STRATEGY FOR MANAGING AUDIT RESOURCES. Requires HHSC to develop and implement an overall strategy for planning, managing, and coordinating audit resources that HHSC uses to verify the accuracy and reliability of program and financial information reported by MCOs.

Sec. 533.054. PERFORMANCE AUDIT SELECTION PROCESS AND FOLLOW-UP. (a) Requires HHSC, to improve HHSC's process for performance audits of MCOs, to take certain actions.

(b) Requires HHSC, to verify that MCOs correct negative performance audit findings, to take certain actions.

Sec. 533.055. AGREED-UPON PROCEDURES ENGAGEMENTS AND CORRECTIVE ACTION PLANS. Requires HHSC, to enhance HHSC's use of agreed-upon procedures engagements to identify MCOs' performance and compliance issues, to take certain actions.

Sec. 533.056. AUDITS OF PHARMACY BENEFIT MANAGERS. Requires HHSC, to obtain greater assurance about the effectiveness of pharmacy benefit managers' internal controls and compliance with state requirements, to take certain actions.

Sec. 533.057. COLLECTION OF COSTS FOR AUDIT-RELATED SERVICES. Requires HHSC to develop, document, and implement billing processes in the Medicaid and CHIP services department of HHSC to ensure that MCOs reimburse HHSC for audit-related services as required by contract.

Sec. 553.058. COLLECTION ACTIVITIES RELATED TO PROFIT SHARING. Requires HHSC, to strengthen HHSC's process for collecting shared profits from MCOs, to develop, document, and implement monitoring processes in the Medicaid and CHIP services department of HHSC to ensure that HHSC takes certain actions.

Sec. 533.059. USE OF INFORMATION FROM EXTERNAL QUALITY REVIEWS. (a) Requires HHSC, to enhance HHSC's monitoring of MCOs, to use the information provided by external quality review organizations, including certain information.

(b) Requires HHSC to document how HHSC uses the information described by Subsection (a) to monitor MCOs.

Sec. 533.060. SECURITY AND PROCESSING CONTROLS OVER INFORMATION TECHNOLOGY SYSTEMS. Requires HHSC to strengthen user access controls for HHSC's accounts receivable tracking system and network folders that HHSC uses to manage the collection of experience rebates; document daily reconciliations of deposits recorded in the accounts receivable tracking system to the transactions processed in certain systems; and develop, document, and implement a process to ensure that HHSC formally documents certain information.

SECTION 2. Requires the executive commissioner of HHSC, as soon as practicable after the effective date of this Act, to adopt the rules necessary to implement Subchapter B, Chapter 533, Government Code, as added by this Act.

SECTION 3. Effective date: September 1, 2017.