

1-1 By: Buckingham S.B. No. 1991
 1-2 (In the Senate - Filed March 7, 2019; March 19, 2019, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 25, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 25, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1991 By: Buckingham

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to claims and overpayment recoupment processes imposed on
 1-22 health care providers under Medicaid.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section [531.024172](#), Government Code, is amended
 1-25 by amending Subsection (g) and adding Subsections (g-1) and (g-2)
 1-26 to read as follows:

1-27 (g) The commission may recognize a health care provider's
 1-28 proprietary electronic visit verification system, whether
 1-29 purchased or developed by the provider, as complying with this
 1-30 section and allow the health care provider to use that system for a
 1-31 period determined by the commission if the commission determines
 1-32 that the system:

1-33 (1) complies with all necessary data submission,
 1-34 exchange, and reporting requirements established under this
 1-35 section; and

1-36 (2) meets all other standards and requirements
 1-37 established under this section ~~[, and~~
 1-38 ~~[(3) has been in use by the health care provider since~~
 1-39 ~~at least June 1, 2014].~~

1-40 (g-1) If feasible, the executive commissioner shall ensure
 1-41 a health care provider that uses the provider's proprietary
 1-42 electronic visit verification system recognized under Subsection
 1-43 (g) is reimbursed for the use of that system.

1-44 (g-2) For purposes of facilitating the use of proprietary
 1-45 electronic visit verification systems by health care providers
 1-46 under Subsection (g) and in consultation with industry stakeholders
 1-47 and the work group established under Subsection (h), the commission
 1-48 or the executive commissioner, as appropriate, shall:

1-49 (1) develop an open model system that mitigates the
 1-50 administrative burdens identified by providers required to use
 1-51 electronic visit verification;

1-52 (2) allow providers to use emerging technologies,
 1-53 including Internet-based, mobile telephone-based, and global
 1-54 positioning-based technologies, in the providers' proprietary
 1-55 electronic visit verification systems; and

1-56 (3) adopt rules governing data submission and provider
 1-57 reimbursement.

1-58 SECTION 2. Section [531.1131](#), Government Code, is amended by
 1-59 adding Subsection (f) to read as follows:

1-60 (f) In adopting rules establishing due process procedures

2-1 under Subsection (e), the executive commissioner shall require that
2-2 a managed care organization or an entity with which the managed care
2-3 organization contracts under Section 531.113(a)(2) that engages in
2-4 payment recovery efforts in accordance with this section and
2-5 Section 531.1135 provide:

2-6 (1) written notice to a provider required to use
2-7 electronic visit verification of the organization's intent to
2-8 recoup overpayments in accordance with Section 531.1135; and

2-9 (2) a provider described by Subdivision (1) at least
2-10 60 days to cure any defect in a claim before the organization may
2-11 begin any efforts to collect overpayments.

2-12 SECTION 3. Subchapter C, Chapter 531, Government Code, is
2-13 amended by adding Section 531.1135 to read as follows:

2-14 Sec. 531.1135. MANAGED CARE ORGANIZATIONS: PROCESS TO
2-15 RECOUP CERTAIN OVERPAYMENTS. (a) The executive commissioner
2-16 shall adopt rules that standardize the process by which a managed
2-17 care organization collects alleged overpayments that are made to a
2-18 health care provider and discovered through an audit or
2-19 investigation conducted by the organization secondary to missing
2-20 electronic visit verification information. In adopting rules under
2-21 this section, the executive commissioner shall require that the
2-22 managed care organization:

2-23 (1) provide written notice of the organization's
2-24 intent to recoup overpayments not later than the 30th day after the
2-25 date an audit is complete; and

2-26 (2) limit the duration of audits to 24 months.

2-27 (b) The executive commissioner shall require that the
2-28 notice required under this section inform the provider:

2-29 (1) of the specific claims and electronic visit
2-30 verification transactions that are the basis of the overpayment;

2-31 (2) of the process the provider should use to
2-32 communicate with the managed care organization to provide
2-33 information about the electronic visit verification transactions;

2-34 (3) of the provider's option to seek an informal
2-35 resolution of the alleged overpayment;

2-36 (4) of the process to appeal the determination that an
2-37 overpayment was made; and

2-38 (5) if the provider intends to respond to the notice,
2-39 that the provider must respond not later than the 30th day after the
2-40 date the provider receives the notice.

2-41 (c) Notwithstanding any other law, a managed care
2-42 organization may not attempt to recover an overpayment described by
2-43 Subsection (a) until the provider has exhausted all rights to an
2-44 appeal.

2-45 SECTION 4. The Health and Human Services Commission is
2-46 required to implement a provision of this Act only if the
2-47 legislature appropriates money to the commission specifically for
2-48 that purpose. If the legislature does not appropriate money
2-49 specifically for that purpose, the commission may, but is not
2-50 required to, implement a provision of this Act using other
2-51 appropriations that are available for that purpose.

2-52 SECTION 5. If before implementing any provision of this Act
2-53 a state agency determines that a waiver or authorization from a
2-54 federal agency is necessary for implementation of that provision,
2-55 the agency affected by the provision shall request the waiver or
2-56 authorization and may delay implementing that provision until the
2-57 waiver or authorization is granted.

2-58 SECTION 6. This Act takes effect September 1, 2019.

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