By: Kolkhorst S.B. No. 884

(In the Senate - Filed January 23, 2025; February 13, 2025, read first time and referred to Committee on Health & Human Services; April 14, 2025, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 14, 2025, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Kolkhorst	X			
Perry	X			
Blanco	X			
Cook	X			
Hall	X			
Hancock	X			
Hughes	X			
Miles	X			
Sparks	X			

COMMITTEE SUBSTITUTE FOR S.B. No. 884 By: Kolkhorst

A BILL TO BE ENTITLED
AN ACT

relating to establishment of a shared savings program for health maintenance organizations and preferred provider benefit plans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 8, Insurance Code, is amended by adding Chapter 1276 to read as follows:

CHAPTER 1276. SHARED SAVINGS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1276.001. DEFINITIONS. In this chapter:

(1) "Direct pay provider" means a health care provider of any health care service or supply that will accept direct payment for a health care service or supply from a patient instead of processing a claim for payment for the service or supply through the patient's health care plan or preferred provider benefit plan.

(2) "Health care provider" means a health care practitioner or health care facility that provides health care services or supplies under a license, certificate, registration, or similar authorization issued by this state.

(3) "Program" means a shared savings program established under this chapter.

Sec. 1276.002. APPLICABILITY OF CHAPTER. This chapter applies only to medically necessary nonemergency health care services or supplies covered under:

(1) a health care plan provided by a health maintenance organization operating under Chapter 843; or

(2) a preferred provider benefit plan provided under Chapter 1301.

Sec. 1276.003. RULES. The commissioner may adopt rules necessary to implement this chapter.

SUBCHAPTER B. PROGRAM REQUIREMENTS

Sec. 1276.051. PROGRAM REQUIRED. (a) A health maintenance organization or insurer to which this chapter applies shall establish a shared savings program in accordance with this chapter.

(b) A health maintenance organization or insurer shall provide written notice to its enrollees or insureds of the program.

(c) An insurer may not require a different procedure for an insured to claim a shared savings incentive payment under this chapter than the procedures established by the insurer under Section 1301.140.

Sec. 1276.052. AVERAGE CONTRACTED RATE DISCLOSURE. (a) As part of the program, a health maintenance organization or insurer shall establish a publicly available Internet website for any

person to view the average contracted rate paid by the health maintenance organization or insurer under a health care plan or preferred provider benefit plan to a health care provider in the plan's provider network for a particular health care service or supply in the preceding 12 months. The health maintenance organization or insurer shall update the average contracted rate at least once per month.

(b) As part of the program, a health maintenance organization or insurer shall establish and operate a toll-free telephone number for an enrollee or insured to request disclosure of the average contracted rate paid under the enrollee's health care plan or the insured's preferred provider benefit plan to a health care provider in the plan's provider network for a particular health care service or supply in the preceding 12 months.

(c) An insurer may use a system described by Subsection (a) or (b) for the purposes of Section 1301.140.

(d) A health maintenance organization or insurer shall disclose to the enrollee or insured the rate the enrollee or insured requested under Subsection (b).

Sec. 1276.053. PARTICIPATION USING DIRECT PAY PROVIDER. (a) For purposes of enrollee or insured eligibility for a shared savings incentive payment under Section 1276.054, a health care provider may be considered a direct pay provider if the health care provider:

(1) publishes the final price that the provider would accept for a health care service or supply eligible under a program for each of the 100 most common nonemergency health care services or supplies offered by the provider and that reflects the enrollee's or insured's final out-of-pocket cost for the service or supply; or

(2) provides an enrollee or insured on request a direct pay price with a written estimate of the final charge for a proposed health care service or supply eligible under the enrollee's or insured's program that includes prices for all services or supplies associated with the proposed service or supply and that reflects the enrollee's or insured's final out-of-pocket cost associated with the proposed service or supply.

(b) A facility to which Chapter 324, Health and Safety Code, applies that provides an estimate of the facility's charges for a proposed service in accordance with Section 324.101(d), Health and Safety Code, satisfies Subsection (a)(2) with respect to that service.

(c) An enrollee or insured may request a direct pay price described by Subsection (a)(2) from any health care provider, regardless of whether the provider has published the information described by Subsection (a)(1), and the enrollee's or insured's decision to obtain a health care service or supply from that provider does not affect the enrollee's or insured's eligibility for a shared savings incentive payment under the enrollee's or insured's program.

(d) A direct pay provider may provide assistance to an enrollee or insured in filing paperwork or providing proof of care or medical necessity in connection with the enrollee's or insured's claim for reimbursement or a shared savings incentive payment under this chapter.

Sec. 1276.054. SHARED SAVINGS INCENTIVE PAYMENT. (a) An enrollee or insured who elects and receives a medically necessary and covered health care service or supply from a direct pay provider and pays an actual price less than the rate disclosed by the enrollee's health maintenance organization or the insured's insurer under Section 1276.052 is eligible for a shared savings incentive payment under the enrollee's or insured's program.

(b) Except as provided by Subsection (c), a health maintenance organization or insurer shall pay to an eligible enrollee or insured a shared savings incentive payment equal to 50 percent of the difference between the disclosed rate and the actual price paid to the direct pay provider, minus any applicable deductible, copayment, or coinsurance.

(c) A health maintenance organization or insurer is not required to pay an enrollee or insured a shared savings incentive

payment under Subsection (b) if:

(1) the amount of the shared savings incentive payment would be less than $50; or

(2) both:

(A) the enrollee's or insured's total shared savings incentive payments for the plan year exceed the greater of:

(i) $20,000; or

(ii) the enrollee's or insured's deductibles and out-of-pocket maximum; and

(B) the health maintenance organization or insurer has provided written notice to the enrollee or insured that the enrollee or insured is not eligible for a shared savings incentive payment for the remainder of the plan year.

(d) A health maintenance organization or insurer shall pay an enrollee or insured under Subsection (b) not later than the 30th day after the date on which the enrollee or insured submits a program claim.

(e) A health maintenance organization or insurer may pay a shared savings incentive payment through a cash payment or other incentive or combination of incentives, including:

(1) a gift card;

(2) a deposit into a health reimbursement arrangement or savings account;

(3) a premium reduction or rebate; and

(4) a cost-sharing reduction.

Sec. 1276.055. COST SHARING UNDER PROGRAM FOR PREFERRED PROVIDER BENEFIT PLAN. (a) This section applies only to a medically necessary health care service or supply that:

(1) is covered under a preferred provider benefit plan; and

(2) an insured receives from a direct pay provider for an amount that is less than the average contracted rate disclosed by the insured's insurer under Section 1276.052.

(b) An insurer shall comply with the requirements of Section 1301.140 to ensure that cost-sharing amounts paid by an insured for a service or supply described by Subsection (a) are counted toward the insured's in-network cost-sharing limits.

Sec. 1276.056. ACCOUNTING AND ADMINISTRATION FOR HEALTH MAINTENANCE ORGANIZATION OR INSURER. (a) If required by the federal government, a health maintenance organization or insurer that pays total shared savings incentive payments in excess of $600 to an enrollee or insured during a calendar year shall issue to the enrollee or insured an Internal Revenue Service Form 1099 not later than January 31 of the following year.

(b) A health maintenance organization or insurer that pays shared savings incentive payments under this chapter may apply to the United States Department of Health and Human Services to include the payments as incurred claims under 45 C.F.R. Section 158.221(b)(8).

Sec. 1276.057. LIABILITY FOR UNFORESEEN CHARGE OVER ESTIMATE. If the final charge for the health care service or supply described by Section 1276.055(a) is an amount greater than the amount estimated under Section 1276.053 due to unforeseen circumstances, the enrollee or insured is liable for the difference only if:

(1) before the enrollee or insured is billed, the enrollee or insured agrees in writing to pay the additional amount; and

(2) before receiving the service or supply, the enrollee or insured receives written notice that the enrollee or insured may be liable for charges resulting from unforeseen circumstances.

SECTION 2. Chapter 1276, Insurance Code, as added by this Act, applies only to a health care plan or insurance policy delivered, issued for delivery, or renewed on or after January 1, 2026.

SECTION 3. This Act takes effect September 1, 2025.

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