BILL ANALYSIS

Senate Research Center

S.B. 8
By: Nelson et al.
Health & Human Services
7/16/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 8 enhances the state's ability to detect and prevent fraud, waste, and abuse in Medicaid and across the health and human services system. These changes will help ensure that public funds are expended on services for individuals who truly need them, and not on fraud, waste, and abuse.

S.B. 8 amends current law relating to the provision and delivery of certain health and human services in this state, including the provision of those services through the Medicaid program and the prevention of fraud, waste, and abuse in that program and other programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 2 (Section 531.02115, Government Code) and SECTION 7 (Section 533.00257, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 10 (Section 32.0322, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 531, Government Code, by adding Section 531.0082, as follows:

Sec. 531.0082. DATA ANALYSIS UNIT. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to establish a data analysis unit within the Health and Human Services Commission (HHSC) to establish, employ, and oversee data analysis processes designed to:

(1) improve contract management;

(2) detect data trends; and

(3) identify anomalies relating to service utilization, providers, payment methodologies, and compliance with requirements in Medicaid and child health plan program managed care and fee-for-service contracts.

(b) Requires HHSC to assign staff to the data analysis unit who perform duties only in relation to the unit.

(c) Requires the data analysis unit to use all available data and tools for data analysis when establishing, employing, and overseeing data analysis processes under this section.

(d) Requires the data analysis unit, not later than the 30th day following the end of each calendar quarter, to provide an update on the unit's activities and findings to certain persons and legislative entities.

SECTION 2. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02115, as follows:

Sec. 531.02115. MARKETING ACTIVITIES BY PROVIDERS PARTICIPATING IN MEDICAID OR CHILD HEALTH PLAN PROGRAM. (a) Prohibits a provider participating in the Medicaid or child health plan program, including a provider participating in the network of a managed care organization that contracts with HHSC to provide services under the Medicaid or child health plan program, from engaging in any marketing activity, including any dissemination of material or other attempt to communicate, that:

(1) involves unsolicited personal contact, including by door-to-door solicitation, solicitation at a child-care facility or other type of facility, direct mail, or telephone, with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program;

(2) is directed at the client or parent solely because the client or the parent's child is receiving benefits under the Medicaid or child health plan program; and

(3) is intended to influence the client's or parent's choice of provider.

(b) Requires a provider participating in the network of a managed care organization described by Subsection (a), in addition to the requirements of that subsection, to comply with the marketing guidelines established by HHSC under Section 533.008 (Marketing Guidelines).

(c) Provides that nothing in this section prohibits:

(1) a provider participating in the Medicaid or child health plan program from:

(A) engaging in a marketing activity, including any dissemination of material or other attempt to communicate, that is intended to influence the choice of provider by a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program, if the marketing activity is conducted at a community-sponsored educational event, health fair, outreach activity, or other similar community or nonprofit event in which the provider participates and does not involve unsolicited personal contact or promotion of the provider's practice or involves only the general dissemination of information, including by television, radio, newspaper, or billboard advertisement, and does not involve unsolicited personal contact;

(B) as permitted under the provider's contract, engaging in the dissemination of material or another attempt to communicate with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program, including communication in person or by direct mail or telephone, for the purpose of:

(i) providing an appointment reminder;

(ii) distributing promotional health materials;

(iii) providing information about the types of services offered by the provider; or

(iv) coordinating patient care; or

(C) engaging in a marketing activity that has been submitted for review and obtained a notice of prior authorization from HHSC under Subsection (d); or

(2) a provider participating in the Medicaid STAR + PLUS program from, as permitted under the provider's contract, engaging in a marketing activity, including any dissemination of material or other attempt to communicate, that is intended to educate a Medicaid client about available long-term care services and supports;

(d) Requires HHSC to establish a process by which providers are authorized to submit proposed marketing activities for review and prior authorization to ensure that providers are in compliance with the requirements of this section and, if applicable, Section 533.008, or to determine whether the providers are exempt from a requirement of this section and, if applicable, Section 533.008. Authorizes HHSC to grant or deny a provider's request for authorization to engage in a proposed marketing activity.

(e) Requires the executive commissioner to adopt rules as necessary to implement this section, including rules relating to provider marketing activities that are exempt from the requirements of this section and, if applicable, Section 533.008.

SECTION 3. Amends Section 531.02414, Government Code, by amending Subsection (d) and adding Subsections (g) and (h), as follows:

(d) Authorizes HHSC, subject to Section 533.00257, to contract with certain transportation entities for the provision of public transportation services, as defined by Section 461.002 (Definitions), Transportation Code, under the medical transportation program.

(g) Requires HHSC to enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Department of Public Safety of the State of Texas (DPS) for purposes of obtaining the motor vehicle registration and driver's license information of a provider of medical transportation services, including a regional contracted broker and a subcontractor of the broker, to confirm that the provider complies with applicable requirements adopted under Subsection (e) (relating to requiring the executive commissioner to adopt certain rules to ensure the safe and efficient provision of nonemergency transportation services under the medical transportation program by regional contracted brokers and subcontractors of regional contracted brokers).

(h) Requires HHSC to establish a process by which providers of medical transportation services, including providers under a managed transportation delivery model, that contract with HHSC are authorized to request and obtain the information described under Subsection (g) for purposes of ensuring that subcontractors providing medical transportation services meet applicable requirements adopted under Subsection (e).

SECTION 4. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.076, as follows:

Sec. 531.076. REVIEW OF PRIOR AUTHORIZATION AND UTILIZATION REVIEW PROCESSES. (a) Requires HHSC to periodically review in accordance with an established schedule the prior authorization and utilization review processes within the Medicaid fee-for-service delivery model to determine if those processes need modification to reduce authorizations of unnecessary services and inappropriate use of services. Requires HHSC to also monitor the processes described in this subsection for anomalies and, on identification of an anomaly in a process, to review the process for modification earlier than scheduled.

(b) Requires HHSC to monitor Medicaid managed care organizations to ensure that the organizations are using prior authorization and utilization review

processes to reduce authorizations of unnecessary services and inappropriate use of services.

SECTION 5. Amends Section 531.102, Government Code, by amending Subsection (a) and adding Subsection (l), as follows:

(a) Provides that HHSC's office of inspector general (OIG) is responsible for the prevention, detection, audit, inspection, review, and investigation of fraud, waste, and abuse in the provision and delivery of all health and human services in the state, including services through any state-administered health or human services program that is wholly or partly federally funded, and the enforcement of state law relating to the provision of those services, rather than providing that HHSC, through OIG, is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services.

(l) Provides that nothing in this section limits the authority of any other state agency or governmental entity.

SECTION 6. Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.1022, as follows:

Sec. 531.1022. PEACE OFFICERS. (a) Requires OIG to employ and commission not more than five peace officers at any given time for the purpose of assisting OIG in carrying out the duties of OIG relating to the investigation of fraud, waste, and abuse in the Medicaid program.

(b) Provides that peace officers employed under this section are administratively attached to DPS. Requires HHSC to provide administrative support to DPS necessary to support the assignment of peace officers employed under this section.

(c) Provides that a peace officer employed and commissioned by OIG under this section is a peace officer for purposes of Article 2.12 (Who Are Peace Officers), Code of Criminal Procedure.

(d) Requires a peace officer employed and commissioned under this section to obtain prior approval from OIG before carrying out any duties requiring peace officer status.

SECTION 7. (a) Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.00257, as follows:

Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES. (a) Defines "managed transportation organization," "medical transportation program," and "transportation service area provider" in this section.

(b) Requires HHSC, subject to Subsection (i), to provide medical transportation program services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers, as appropriate, that:

(1) operate under a capitated rate system;

(2) assume financial responsibility under a full-risk model;

(3) operate a call center;

(4) use fixed routes when available and appropriate; and

(5) agree to provide data to HHSC if HHSC determines that the data is required to receive federal matching funds.

(c) Requires HHSC to procure managed transportation organizations under the medical transportation program through a competitive bidding process for each managed transportation region as determined by HHSC.

(d) Requires a managed transportation organization that participates in the medical transportation program to attempt to contract with medical transportation providers that:

(1) are considered significant traditional providers, as defined by rule by the executive commissioner;

(2) meet the minimum quality and efficiency measures required under Subsection (g) and other requirements that may be imposed by the managed transportation organization; and

(3) agree to accept the prevailing contract rate of the managed transportation organization.

(e) Authorizes a managed transportation organization, to the extent allowed under federal law, to own, operate, and maintain a fleet of vehicles or contract with an entity that owns, operates, and maintains a fleet of vehicles. Requires HHSC to seek appropriate federal waivers or other authorizations to implement this subsection as necessary.

(f) Requires HHSC to consider the ownership, operation, and maintenance of a fleet of vehicles by a managed transportation organization to be a related-party transaction for purposes of applying experience rebates, administrative costs, and other administrative controls determined by HHSC.

(g) Requires HHSC to require that managed transportation organizations and providers participating in the medical transportation program meet minimum quality and efficiency measures as determined by HHSC.

(h) Authorizes HHSC to contract with transportation service area providers providing services under the medical transportation program on September 1, 2013, in not more than three contiguous rural or small urban transit districts located within a managed transportation region to execute appropriate interlocal agreements to consolidate and coordinate medical transportation program service delivery activities within the area served by the providers for the evaluation of:

(1) cost-savings measures;

(2) efficiencies;

(3) best practices; and

(4) available matching funds.

(i) Authorizes HHSC to delay providing medical transportation program services through a managed transportation delivery model in areas of this state in which HHSC on September 1, 2013, is operating a full-risk transportation broker model.

(j) Prohibits HHSC, notwithstanding Subsection (i), from delaying providing medical transportation program services through a managed transportation delivery model in:

(1) a county with a population of 750,000 or more in which all or part of a municipality with a population of one million or more is located and that is located adjacent to a county with a population of two million or more; or

(2) a county with a population of at least 55,000 but not more than 65,000 that is located adjacent to a county with a population of at least 500,000 but not more than 1.5 million.

(k) Provides that Subsection (h) and this subsection expire August 31, 2015.

(b) Requires HHSC to begin providing medical transportation program services through the delivery model required by Section 533.00257, Government Code, as added by this section, not later than September 1, 2014, subject to Section 533.00257(i), Government Code, as added by this section.

SECTION 8. Amends Section 533.005(a-1), Government Code, to provide that the requirements imposed by Subsections (a)(23)(A) (relating to requiring that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain a requirement that the managed care organization develop an outpatient pharmacy benefit plan for its enrolled recipients that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program), (B) (relating to requiring that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain a requirement that the managed care organization develop an outpatient pharmacy benefit plan for its enrolled recipients that adheres to the applicable preferred drug list adopted by HHSC), and (C) (relating to requiring that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain a requirement that the managed care organization develop an outpatient pharmacy benefit plan for its enrolled recipients that includes the prior authorization procedures and requirements prescribed by or implemented for the vendor drug program) do not apply, and are prohibited from being enforced, on and after August 31, 2018, rather than on or after August 31, 2013.

SECTION 9. (a) Amends Section 773.0571, Health and Safety Code, as follows:

Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. Requires the Department of State Health Services (DSHS) to issue to an emergency medical services provider applicant a license that is valid for two years if DSHS is satisfied that:

(1) the applicant, rather than the emergency medical services provider, has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;

(2) Makes no change to this subdivision;

(3) the applicant, rather than the emergency medical services provider, offers safe and efficient services for emergency prehospital care and transportation of patients;

(4) the applicant possesses sufficient professional experience and qualifications to provide emergency medical services and has not been excluded from participation in the state Medicaid program;

(5) the applicant holds a letter of approval issued under Section 773.0573 by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services, as applicable;

(6) the applicant employs a medical director; and

(7) the applicant, rather than the emergency medical services provider, complies with the rules adopted under this chapter, rather than complies with the rules adopted by the Texas Board of Health under this chapter.

(b) Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Sections 773.05711, 773.05712, and 773.05713, as follows:

Sec. 773.05711. ADDITIONAL EMERGENCY MEDICAL SERVICES PROVIDER LICENSE REQUIREMENTS. (a) Requires a person who applies for a license or for a renewal of a license, in addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, to:

(1) provide DSHS with a letter of credit issued by a federally insured bank or savings institution in the amount of:

(A) $100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) $75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued;

(C) $50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued; and

(D) $25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued;

(2) if the applicant participates in the medical assistance program operated under Chapter 32 (Medical Assistance Program), Human Resources Code, the Medicaid managed care program operated under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, or the child health plan program operated under Chapter 62 (Child Health Plan for Certain Low-Income Children) of this code, provide HHSC with a surety bond in the amount of $50,000; and

(3) submit for approval by DSHS the name and contact information of the provider's administrator of record who satisfies the requirements under Section 773.05712.

(b) Provides that an emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05712. ADMINISTRATOR OF RECORD. (a) Provides that the administrator of record for an emergency medical services provider licensed under this subchapter:

(1) is prohibited from being employed or otherwise compensated by another private for-profit emergency medical services provider;

(2) is required to meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state; and

(3) is required to submit to a criminal history record check at the applicant's expense.

(b) Provides that Section 773.0415 (Limitation on Information Required for Certificate Renewal) does not apply to information an administrator of record is required to provide under this section.

(c) Authorizes an administrator of record initially approved by DSHS to be required to complete an education course for new administrators of record. Requires the executive commissioner to recognize, prepare, or administer the education course for new administrators of record, which must include information about the laws and DSHS rules that affect emergency medical services providers.

(d) Requires an administrator of record approved by DSHS under Section 773.05711(a) annually to complete at least eight hours of continuing education following initial approval. Requires the executive commissioner to recognize, prepare, or administer continuing education programs for administrators of record, which are required to include information about changes in law and DSHS rules that affect emergency medical services providers.

(e) Provides that Subsection (a)(2) does not apply to an emergency medical services provider that held a license on September 1, 2013, and has an administrator of record who has at least eight years of experience providing emergency medical services.

(f) Provides that an emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05713. REPORT TO LEGISLATURE. Requires DSHS, not later than December 1 of each even-numbered year, to electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over DSHS on the effect of Sections 773.05711 and 773.05712 that includes:

(1) the total number of applications for emergency medical services provider licenses submitted to DSHS and the number of applications for which licenses were issued or licenses were denied by DSHS;

(2) the number of emergency medical services provider licenses that were suspended or revoked by DSHS for violations of those sections and a description of the types of violations that led to the license suspension or revocation;

(3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections;

(4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints; and

(5) the status of any coordination efforts of DSHS and the Texas Medical Board (TMB) related to those sections.

(c) Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Section 773.0573, as follows:

Sec. 773.0573. LETTER OF APPROVAL FROM LOCAL GOVERNMENTAL ENTITY. (a) Requires an emergency medical services provider applicant to obtain a letter of approval from:

(1) the governing body of the municipality in which the applicant is located and is applying to provide emergency medical services; or

(2) if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services.

(b) Authorizes a governing body of a municipality or a commissioners court of a county to issue a letter of approval to an emergency medical services provider applicant who is applying to provide emergency medical services in the municipality or county only if the governing body or commissioners court determines that:

(1) the addition of another licensed emergency medical services provider will not interfere with or adversely affect the provision of emergency medical services by the licensed emergency medical services providers operating in the municipality or county;

(2) the addition of another licensed emergency medical services provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed emergency medical services providers operating in the municipality or county; and

(3) the addition of another licensed emergency medical services provider will not cause an oversupply of licensed emergency medical services providers in the municipality or county.

(c) Provides that an emergency medical services provider is prohibited from expanding operations to or stationing any emergency medical services vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval under this section until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with:

(1) a contract awarded by another municipality or county for the provision of emergency medical services;

(2) an emergency response made in connection with an existing mutual aid agreement; or

(3) an activation of a statewide emergency or disaster response by DSHS.

(d) Provides that this section does not apply to:

(1) renewal of an emergency medical services provider license; or

(2) a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state that applies for an emergency medical services provider license.

(d) Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Section 773.06141, as follows:

Sec. 773.06141. SUSPENSION, REVOCATION, OR DENIAL OF EMERGENCY MEDICAL SERVICES PROVIDER LICENSE. (a) Authorizes the commissioner to suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative:

(1) has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense for which points are assigned under Section 708.052 (Assignment of Points for Certain Convictions), Transportation Code;

(2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including:

(A) an offense listed in Sections 3g(a)(1)(A) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 19.02, Penal Code (Murder)), (B) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 19.03, Penal Code (Capital Murder)), (C) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 21.11(a)(1), Penal Code (Indecency With A Child)), (D) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 20.04, Penal Code (Aggravated Kidnapping)), (E) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 22.021, Penal Code (Aggravated Sexual Assault)), (F) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 29.03, Penal Code (Aggravated Robbery)), (G) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Chapter 481, Health and Safety Code, for which punishment is increased for certain offenses), and (H) (relating to certain provisions not applying to a defendant adjudged guilty of an offense under Section 22.011, Penal Code (Sexual Assault), Article 42.12, Code of Criminal Procedure; or

(B) an offense, other than an offense described by Subdivision (1), for which the person is subject to registration under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or

(3) has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program under Subchapter C (Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges), Chapter 531, Government Code.

(b) Provides that an emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

(e) Prohibits DSHS, notwithstanding Chapter 773 (Emergency Medical Services), Health and Safety Code, as amended by this section, from issuing any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on August 31, 2014. Provides that the moratorium does not apply to the issuance of an emergency medical services provider license to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state, or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area, as that term is defined in Section 773.0045 (Temporary Exemptions for Emergency Medical Services Personnel Practicing in Rural Area), Health and Safety Code.

(f) Provides that Section 773.0571, Health and Safety Code, as amended by this section, and Section 773.0573, Health and Safety Code, as added by this section, apply only to an application for approval of an emergency medical services provider license submitted to DSHS on or after the effective date of this Act. Provides that an application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(g) Provides that the changes in law made by this section apply only to an application for approval or renewal of an emergency medical services provider license submitted to DSHS on or after the effective date of this Act. Provides that an application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. Amends Section 32.0322, Human Resources Code, by amending Subsection (b) and adding Subsections (b-1), (e), and (f), as follows:

(b) Requires the executive commissioner by rule, subject to Subsections (b-1) and (e), to establish criteria for HHSC or OIG to suspend a provider's billing privileges under the medical assistance program, revoke a provider's enrollment under the program, or deny a person's application to enroll as a provider under the program based on certain criteria.

(b-1) Requires the executive commissioner, in adopting rules under this section, to require revocation of a provider's enrollment or denial of a person's application for enrollment as a provider under the medical assistance program if the person has been excluded or debarred from participation in a state or federally funded health care program as a result of:

(1) a criminal conviction or finding of civil or administrative liability for committing a fraudulent act, theft, embezzlement, or other financial misconduct under a state or federally funded health care program; or

(2) a criminal conviction for committing an act under a state or federally funded health care program that caused bodily injury to a person who is 65 years of age or older, a person with a disability, or a person under 18 years of age.

(e) Authorizes HHSC or an agency operating part of the medical assistance program (department) to reinstate a provider's enrollment under the medical assistance program or grant a person's previously denied application to enroll as a provider, including a person described by Subsection (b-1), if the department finds:

(1) good cause to determine that it is in the best interest of the medical assistance program; and

(2) the person has not committed an act that would require revocation of a provider's enrollment or denial of a person's application to enroll since the person's enrollment was revoked or application was denied, as appropriate.

(f) Requires the department to support a determination made under Subsection (e) with written findings of good cause for the determination.

SECTION 11. Amends Section 32.073, Human Resources Code, by adding Subsection (c), to require HHSC, not later than the second anniversary of the date national standards for electronic prior authorization of benefits are adopted, to require a health benefit plan issuer participating in the medical assistance program or the agent of the health benefit plan issuer that manages or administers prescription drug benefits to exchange prior authorization requests electronically with a prescribing provider participating in the medical assistance program who has electronic prescribing capability and who initiates a request electronically.

SECTION 12. Amends Section 36.005, Human Resources Code, by amending Subsection (b-1) and adding Subsections (e), (f), and (g), as follows:

(b-1) Provides that the period of ineligibility begins on the date on which the judgment finding the provider liable under Section 36.052 (Civil Remedies) is entered by the trial court, rather than the date on which the determination that the provider is liable becomes final.

(e) Provides that the period of ineligibility for an individual licensed by a health care regulatory agency or a physician, notwithstanding Subsection (b-1), begins on the date on which the determination that the individual or physician is liable becomes final.

(f) Defines "physician" for purposes of Subsection (e).

(g) Defines "health care regulatory agency" for purposes of Subsection (e).

SECTION 13. (a) Requires HHSC, in cooperation with DSHS and TMB, to:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the use of non-emergent services provided by ambulance providers under the medical assistance program established under Chapter 32, Human Resources Code;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) Provides that this section expires September 1, 2015.

SECTION 14. (a) Requires DSHS, in cooperation with HHSC and TMB, to:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the licensure of nonemergency transportation providers;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) Provides that this section expires September 1, 2015.

SECTION 15. (a) Requires TMB, in cooperation with DSHS and HHSC, to:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to:

(A) the delegation of health care services by physicians or medical directors to qualified emergency medical services personnel; and

(B) physicians' assessment of patients' needs for purposes of ambulatory transfer or transport or other purposes;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) Provides that this section expires September 1, 2015.

SECTION 16. (a) Requires HHSC to study the feasibility of developing and implementing a single standard prior authorization form to be used for requesting prior authorization for prescription drugs in the medical assistance program by participating prescribers who do not have electronic prescribing capability and are not able to initiate electronic prior authorization requests. Requires HHSC to complete the study not later than December 31, 2014.

(b) Requires HHSC, if HHSC determines that developing and implementing the form described in Subsection (a) of this section is feasible, will reduce administrative burdens, and is cost-effective, to adjust contracts with participating health benefit plan issuers and participating health benefit plan administrators to require acceptance of the form.

SECTION 17. (a) Requires OIG to review the manner in which:

(1) OIG investigates fraud, waste, and abuse in the supplemental nutrition assistance program under Chapter 33 (Nutritional Assistance Programs), Human Resources Code, including in the provision of benefits under that program; and

(2) OIG coordinates with other state and federal agencies in conducting those investigations.

(b) Requires OIG, not later than September 1, 2014, and based on the review required by Subsection (a) of this section, to submit to the legislature a written report containing strategies for addressing fraud, waste, and abuse in the supplemental nutrition assistance program under Chapter 33, Human Resources Code, including in the provision of benefits under that program.

(c) Provides that this section expires January 1, 2015.

SECTION 18. (a) Provides that this section is a clarification of legislative intent regarding Section 32.024(s) (relating to the periodicity of visits for children on Medicare and the eligibility of reimbursement for these visits), Human Resources Code, and a validation of certain HHSC acts and decisions.

(b) Provides that the legislature, in 1999, became aware that certain children enrolled in the Medicaid program were receiving treatment under the program outside the presence

of a parent or another responsible adult. Provides that the treatment of unaccompanied children under the Medicaid program resulted in the provision of unnecessary services to those children, the exposure of those children to unnecessary health and safety risks, and the submission of fraudulent claims by Medicaid providers.

(c) Provides that the legislature, in addition, in 1999, became aware of allegations that certain Medicaid providers were offering money and other gifts in exchange for a parent's or child's consent to receive unnecessary services under the Medicaid program. Provides that a child, in some cases, was offered money or gifts in exchange for the parent's or child's consent to have the child transported to a different location to receive unnecessary services. Provides that the child, in some of those cases, once transported, received no treatment and was left unsupervised for hours before being transported home. Provides that the provision of money and other gifts by Medicaid providers in exchange for parents' or children's consent to services deprived those parents and children of the right to choose a Medicaid provider without improper inducement.

(d) Provides that the legislature, in response, in 1999, enacted Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, which amended Section 32.024, Human Resources Code, by amending Subsection (s) and adding Subsection (s-1). Provides that Section 32.024(s), Human Resources Code, as amended, requires that a child's parent or guardian or another adult authorized by the child's parent or guardian accompany the child at a visit or screening under the early and periodic screening, diagnosis, and treatment program in order for a Medicaid provider to be reimbursed for services provided at the visit or screening. Provides that the bill, as filed, required a child's parent or guardian to accompany the child. Provides that the house committee report added the language allowing an adult authorized by the child's parent or guardian to accompany the child in order to accommodate a parent or guardian for whom accompanying the parent's or guardian's child to each visit or screening would be a hardship.

(e) Provides that the legislature finds that:

(1) in amending Section 32.024(s), Human Resources Code, in 1999, the legislature did not intend to:

(A) create a hardship for families whose circumstances prevent a parent or guardian from accompanying the parent's or guardian's child to each visit or screening under the early and periodic screening, diagnosis, and treatment program; and

(B) compromise a child's access to medically necessary services or to require a parent or guardian to jeopardize his or her employment or the health and safety of other children in the household;

(2) in enacting and enforcing administrative rules and policies to implement the parental accompaniment requirement of Section 32.024(s), Human Resources Code, HHSC should give special consideration and should reasonably accommodate the circumstances of a child who lives in a single parent or guardian family and whose parent or guardian:

(A) has a full-time job that does not allow the parent or guardian to take time off during a provider's regular business hours;

(B) attends school or participates in a job training program that requires the parent's or guardian's full-time attendance and does not allow absences for medical or personal needs;

(C) is the caretaker of two or more children and does not have access to child care;

(D) has a disability or illness that prevents the parent or guardian from safely accompanying the child to a visit or screening; or

(E) is the primary caregiver of a person who has a disability or illness and for whom no alternate caregiver is available; and

(3) in developing reasonable accommodations described by this subsection, HHSC should not allow the provider of a service or an affiliate of the provider to accompany the child as an authorized adult for purposes of Section 32.024(s)(2)(B) (relating to requiring HHSC to require that child younger than 15 years of age be accompanied at the visit by another adult, including an adult related to the child, authorized by the child's parent or guardian to accompany the child), Human Resources Code.

(f) Provides that the principal purposes of Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, were to prevent Medicaid providers from committing fraud, encourage parental involvement in and management of health care of children enrolled in the early and periodic screening, diagnosis, and treatment program, and ensure the safety of children receiving services under the Medicaid program. Provides that the addition of the language allowing an adult authorized by a child's parent or guardian to accompany the child furthered each of those purposes.

(g) Provides that the legislature, in amending Section 32.024(s), Human Resources Code, understood that:

(1) the effectiveness of medical, dental, and therapy services provided to a child improves when the child's parent or guardian actively participates in the delivery of those services;

(2) a parent is responsible for the safety and well-being of the parent's child, and that a parent cannot casually delegate this responsibility to a stranger;

(3) a parent may not always be available to accompany the parent's child at a visit to the child's doctor, dentist, or therapist; and

(4) Medicaid providers and their employees and associates have a financial interest in the delivery of services under the Medicaid program and, accordingly, cannot fulfill the responsibilities of a parent or guardian when providing services to a child.

(h)(1) Provides that HHSC, on March 15, 2012, notified certain Medicaid providers that state law and HHSC policy require a child's parent or guardian or another properly authorized adult to accompany a child receiving services under the Medicaid program. Provides that this notice followed HHSC's discovery that some providers were transporting children from schools to therapy clinics and other locations to receive therapy services. Provides that, although the children were not accompanied by a parent or guardian during these trips, the providers were obtaining reimbursement for the trips under the Medicaid medical transportation program. Provides that HHSC clarified in the notice that in order for a provider to be reimbursed for transportation services provided to a child under the Medicaid medical transportation program, the child must be accompanied by the child's parent or guardian or another adult who is not the provider and whom the child's parent or guardian has authorized to accompany the child by submitting signed, written consent to the provider.

(2) Provides that a lawsuit was filed, in May 2012, to enjoin HHSC from enforcing Section 32.024(s), Human Resources Code, and 1 T.A.C. Section 380.207, as interpreted in certain notices issued by HHSC. Provides that a state district court enjoined HHSC from denying eligibility to a child for transportation services under the Medicaid medical transportation program if the child's parent or guardian does not accompany the child, provided that the child's parent or

guardian authorizes any other adult to accompany the child. Provides that the court also enjoined HHSC from requiring as a condition for a provider to be reimbursed for services provided to a child during a visit or screening under the early and periodic screening, diagnosis, and treatment program that the child be accompanied by the child's parent or guardian, provided that the child's parent or guardian authorizes another adult to accompany the child. Provides that the state has filed a notice of appeal of the court's order.

(3) Provides that the legislature declares that a rule or policy adopted by HHSC before the effective date of this Act to require that, in order for a Medicaid provider to be reimbursed for services provided to a child under the early and periodic screening, diagnosis, and treatment program or the medical transportation program, the child is required to be accompanied by the child's parent or guardian or another adult whom the child's parent or guardian has authorized to accompany the child is conclusively presumed, as of the date the rule or policy was adopted, to be a valid exercise of HHSC's authority and consistent with the intent of the legislature, provided that the rule or policy:

(A) was adopted pursuant to, Section 32.024(s), Human Resources Code; and

(B) prohibits the child's parent or guardian from authorizing the provider or the provider's employee or associate as an adult who may accompany the child.

(4) Provides that Subdivision (3) of this subsection does not apply to:

(A) an action or decision that was void at the time the action was taken or the decision was made;

(B) an action or decision that violates federal law or the terms of a federal waiver; or

(C) an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made.

(5) Provides that this section does not apply to an action or decision that was void at the time the action was taken or the decision was made; an action or decision that violates federal law or the terms of a federal waiver; or an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made.

SECTION 19. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to establish the data analysis unit required under Section 531.0082, Government Code, as added by this Act. Requires that the data analysis unit provide the initial update required under Section 531.0082(d), Government Code, as added by this Act, not later than the 30th day after the last day of the first complete calendar quarter occurring after the date the unit is established.

SECTION 20. Requires HHSC, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 21. Effective date: September 1, 2013.