

AN ACT

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.

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

SECTION 1. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0082 to read as follows:

Sec. 531.0082. DATA ANALYSIS UNIT. (a) The executive commissioner shall establish a data analysis unit within the commission 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) The commission shall assign staff to the data analysis unit who perform duties only in relation to the unit.

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

(d) Not later than the 30th day following the end of each

1 calendar quarter, the data analysis unit shall provide an update on  
2 the unit's activities and findings to the governor, the lieutenant  
3 governor, the speaker of the house of representatives, the chair of  
4 the Senate Finance Committee, the chair of the House Appropriations  
5 Committee, and the chairs of the standing committees of the senate  
6 and house of representatives having jurisdiction over the Medicaid  
7 program.

8 SECTION 2. Subchapter B, Chapter 531, Government Code, is  
9 amended by adding Section 531.02115 to read as follows:

10 Sec. 531.02115. MARKETING ACTIVITIES BY PROVIDERS  
11 PARTICIPATING IN MEDICAID OR CHILD HEALTH PLAN PROGRAM. (a) A  
12 provider participating in the Medicaid or child health plan  
13 program, including a provider participating in the network of a  
14 managed care organization that contracts with the commission to  
15 provide services under the Medicaid or child health plan program,  
16 may not engage in any marketing activity, including any  
17 dissemination of material or other attempt to communicate, that:

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

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

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

1        (b) In addition to the requirements of Subsection (a), a  
2 provider participating in the network of a managed care  
3 organization described by that subsection must comply with the  
4 marketing guidelines established by the commission under Section  
5 533.008.

6        (c) Nothing in this section prohibits:

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

9                    (A) engaging in a marketing activity, including  
10 any dissemination of material or other attempt to communicate, that  
11 is intended to influence the choice of provider by a Medicaid client  
12 or a parent whose child is enrolled in the Medicaid or child health  
13 plan program, if the marketing activity:

14                            (i) is conducted at a community-sponsored  
15 educational event, health fair, outreach activity, or other similar  
16 community or nonprofit event in which the provider participates and  
17 does not involve unsolicited personal contact or promotion of the  
18 provider's practice; or

19                            (ii) involves only the general  
20 dissemination of information, including by television, radio,  
21 newspaper, or billboard advertisement, and does not involve  
22 unsolicited personal contact;

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

1 purpose of:

2 (i) providing an appointment reminder;

3 (ii) distributing promotional health  
4 materials;

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

7 (iv) coordinating patient care; or

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

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

17 (d) The commission shall establish a process by which  
18 providers may submit proposed marketing activities for review and  
19 prior authorization to ensure that providers are in compliance with  
20 the requirements of this section and, if applicable, Section  
21 533.008, or to determine whether the providers are exempt from a  
22 requirement of this section and, if applicable, Section 533.008.  
23 The commission may grant or deny a provider's request for  
24 authorization to engage in a proposed marketing activity.

25 (e) The executive commissioner shall adopt rules as  
26 necessary to implement this section, including rules relating to  
27 provider marketing activities that are exempt from the requirements

1 of this section and, if applicable, Section 533.008.

2 SECTION 3. Section 531.02414, Government Code, is amended  
3 by amending Subsection (d) and adding Subsections (g) and (h) to  
4 read as follows:

5 (d) Subject to Section 533.00257, the [~~The~~] commission may  
6 contract with a public transportation provider, as defined by  
7 Section 461.002, Transportation Code, a private transportation  
8 provider, or a regional transportation broker for the provision of  
9 public transportation services, as defined by Section 461.002,  
10 Transportation Code, under the medical transportation program.

11 (g) The commission shall enter into a memorandum of  
12 understanding with the Texas Department of Motor Vehicles and the  
13 Department of Public Safety for purposes of obtaining the motor  
14 vehicle registration and driver's license information of a provider  
15 of medical transportation services, including a regional  
16 contracted broker and a subcontractor of the broker, to confirm  
17 that the provider complies with applicable requirements adopted  
18 under Subsection (e).

19 (h) The commission shall establish a process by which  
20 providers of medical transportation services, including providers  
21 under a managed transportation delivery model, that contract with  
22 the commission may request and obtain the information described  
23 under Subsection (g) for purposes of ensuring that subcontractors  
24 providing medical transportation services meet applicable  
25 requirements adopted under Subsection (e).

26 SECTION 4. Subchapter B, Chapter 531, Government Code, is  
27 amended by adding Section 531.076 to read as follows:

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

11       (b) The commission shall monitor Medicaid managed care  
12 organizations to ensure that the organizations are using prior  
13 authorization and utilization review processes to reduce  
14 authorizations of unnecessary services and inappropriate use of  
15 services.

16       SECTION 5. Section 531.102, Government Code, is amended by  
17 amending Subsection (a) and adding Subsection (l) to read as  
18 follows:

19       (a) The [~~commission, through the~~] commission's office of  
20 inspector general[~~7~~] is responsible for the prevention, detection,  
21 audit, inspection, review, and investigation of fraud, waste, and  
22 abuse in the provision and delivery of all health and human services  
23 in the state, including services through any state-administered  
24 health or human services program that is wholly or partly federally  
25 funded, and the enforcement of state law relating to the provision  
26 of those services. The commission may obtain any information or  
27 technology necessary to enable the office to meet its

1 responsibilities under this subchapter or other law.

2 (1) Nothing in this section limits the authority of any  
3 other state agency or governmental entity.

4 SECTION 6. Subchapter C, Chapter 531, Government Code, is  
5 amended by adding Section 531.1022 to read as follows:

6 Sec. 531.1022. PEACE OFFICERS. (a) The commission's  
7 office of inspector general shall employ and commission not more  
8 than five peace officers at any given time for the purpose of  
9 assisting the office in carrying out the duties of the office  
10 relating to the investigation of fraud, waste, and abuse in the  
11 Medicaid program.

12 (b) Peace officers employed under this section are  
13 administratively attached to the Department of Public Safety. The  
14 commission shall provide administrative support to the department  
15 necessary to support the assignment of peace officers employed  
16 under this section.

17 (c) A peace officer employed and commissioned by the office  
18 under this section is a peace officer for purposes of Article 2.12,  
19 Code of Criminal Procedure.

20 (d) A peace officer employed and commissioned under this  
21 section shall obtain prior approval from the office of attorney  
22 general before carrying out any duties requiring peace officer  
23 status.

24 SECTION 7. (a) Subchapter A, Chapter 533, Government Code,  
25 is amended by adding Section 533.00257 to read as follows:

26 Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM  
27 SERVICES. (a) In this section:

- 1           (1) "Managed transportation organization" means:  
2                   (A) a rural or urban transit district created  
3 under Chapter 458, Transportation Code;  
4                   (B) a public transportation provider defined by  
5 Section 461.002, Transportation Code;  
6                   (C) a regional contracted broker defined by  
7 Section 531.02414;  
8                   (D) a local private transportation provider  
9 approved by the commission to provide Medicaid nonemergency medical  
10 transportation services; or  
11                   (E) any other entity the commission determines  
12 meets the requirements of this section.
- 13           (2) "Medical transportation program" has the meaning  
14 assigned by Section 531.02414.
- 15           (3) "Transportation service area provider" means a  
16 for-profit or nonprofit entity or political subdivision of this  
17 state that provides demand response, curb-to-curb, nonemergency  
18 transportation under the medical transportation program.
- 19           (b) Subject to Subsection (i), the commission shall provide  
20 medical transportation program services on a regional basis through  
21 a managed transportation delivery model using managed  
22 transportation organizations and providers, as appropriate, that:
- 23                   (1) operate under a capitated rate system;  
24                   (2) assume financial responsibility under a full-risk  
25 model;  
26                   (3) operate a call center;  
27                   (4) use fixed routes when available and appropriate;

1 and

2 (5) agree to provide data to the commission if the  
3 commission determines that the data is required to receive federal  
4 matching funds.

5 (c) The commission shall procure managed transportation  
6 organizations under the medical transportation program through a  
7 competitive bidding process for each managed transportation region  
8 as determined by the commission.

9 (d) A managed transportation organization that participates  
10 in the medical transportation program must attempt to contract with  
11 medical transportation providers that:

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

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

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

19 (e) To the extent allowed under federal law, a managed  
20 transportation organization may own, operate, and maintain a fleet  
21 of vehicles or contract with an entity that owns, operates, and  
22 maintains a fleet of vehicles. The commission shall seek  
23 appropriate federal waivers or other authorizations to implement  
24 this subsection as necessary.

25 (f) The commission shall consider the ownership, operation,  
26 and maintenance of a fleet of vehicles by a managed transportation  
27 organization to be a related-party transaction for purposes of

1 applying experience rebates, administrative costs, and other  
2 administrative controls determined by the commission.

3 (g) The commission shall require that managed  
4 transportation organizations and providers participating in the  
5 medical transportation program meet minimum quality and efficiency  
6 measures as determined by the commission.

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

- 15 (1) cost-savings measures;
- 16 (2) efficiencies;
- 17 (3) best practices; and
- 18 (4) available matching funds.

19 (i) The commission may delay providing medical  
20 transportation program services through a managed transportation  
21 delivery model in areas of this state in which the commission on  
22 September 1, 2013, is operating a full-risk transportation broker  
23 model.

24 (j) Notwithstanding Subsection (i), the commission may not  
25 delay providing medical transportation program services through a  
26 managed transportation delivery model in:

- 27 (1) a county with a population of 750,000 or more:

1           (A) in which all or part of a municipality with a  
2 population of one million or more is located; and

3           (B) that is located adjacent to a county with a  
4 population of two million or more; or

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

8           (k) Subsection (h) and this subsection expire August 31,  
9 2015.

10           (b) The Health and Human Services Commission shall begin  
11 providing medical transportation program services through the  
12 delivery model required by Section 533.00257, Government Code, as  
13 added by this section, not later than September 1, 2014, subject to  
14 Subsection (i), Section 533.00257, Government Code, as added by  
15 this section.

16           SECTION 8. Subsection (a-1), Section 533.005, Government  
17 Code, is amended to read as follows:

18           (a-1) The requirements imposed by Subsections (a)(23)(A),  
19 (B), and (C) do not apply, and may not be enforced, on and after  
20 August 31, 2018 [~~2013~~].

21           SECTION 9. (a) Section 773.0571, Health and Safety Code, is  
22 amended to read as follows:

23           Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The  
24 department shall issue to an emergency medical services provider  
25 applicant a license that is valid for two years if the department is  
26 satisfied that:

27           (1) the applicant [~~emergency medical services~~

1 ~~provider~~] has adequate staff to meet the staffing standards  
2 prescribed by this chapter and the rules adopted under this  
3 chapter;

4 (2) each emergency medical services vehicle is  
5 adequately constructed, equipped, maintained, and operated to  
6 render basic or advanced life support services safely and  
7 efficiently;

8 (3) the applicant [~~emergency—medical—services~~  
9 ~~provider~~] offers safe and efficient services for emergency  
10 prehospital care and transportation of patients; [~~and~~]

11 (4) the applicant:

12 (A) possesses sufficient professional experience  
13 and qualifications to provide emergency medical services; and

14 (B) has not been excluded from participation in  
15 the state Medicaid program;

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

21 (6) the applicant employs a medical director; and

22 (7) the applicant [~~emergency—medical—services~~  
23 ~~provider~~] complies with the rules adopted [~~by the board~~] under this  
24 chapter.

25 (b) Subchapter C, Chapter 773, Health and Safety Code, is  
26 amended by adding Sections 773.05711, 773.05712, and 773.05713 to  
27 read as follows:

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

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

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

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

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

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

18           (2) if the applicant participates in the medical  
19 assistance program operated under Chapter 32, Human Resources Code,  
20 the Medicaid managed care program operated under Chapter 533,  
21 Government Code, or the child health plan program operated under  
22 Chapter 62 of this code, provide the Health and Human Services  
23 Commission with a surety bond in the amount of \$50,000; and

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

27       (b) An emergency medical services provider that is directly

1 operated by a governmental entity is exempt from this section.

2 Sec. 773.05712. ADMINISTRATOR OF RECORD. (a) The  
3 administrator of record for an emergency medical services provider  
4 licensed under this subchapter:

5 (1) may not be employed or otherwise compensated by  
6 another private for-profit emergency medical services provider;

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

10 (3) must submit to a criminal history record check at  
11 the applicant's expense.

12 (b) Section 773.0415 does not apply to information an  
13 administrator of record is required to provide under this section.

14 (c) An administrator of record initially approved by the  
15 department may be required to complete an education course for new  
16 administrators of record. The executive commissioner shall  
17 recognize, prepare, or administer the education course for new  
18 administrators of record, which must include information about the  
19 laws and department rules that affect emergency medical services  
20 providers.

21 (d) An administrator of record approved by the department  
22 under Section 773.05711(a) annually must complete at least eight  
23 hours of continuing education following initial approval. The  
24 executive commissioner shall recognize, prepare, or administer  
25 continuing education programs for administrators of record, which  
26 must include information about changes in law and department rules  
27 that affect emergency medical services providers.

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

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

7       Sec. 773.05713. REPORT TO LEGISLATURE. Not later than  
8 December 1 of each even-numbered year, the department shall  
9 electronically submit a report to the lieutenant governor, the  
10 speaker of the house of representatives, and the standing  
11 committees of the house and senate with jurisdiction over the  
12 department on the effect of Sections 773.05711 and 773.05712 that  
13 includes:

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

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

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

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

1           (5) the status of any coordination efforts of the  
2 department and the Texas Medical Board related to those sections.

3           (c) Subchapter C, Chapter 773, Health and Safety Code, is  
4 amended by adding Section 773.0573 to read as follows:

5           Sec. 773.0573. LETTER OF APPROVAL FROM LOCAL GOVERNMENTAL  
6 ENTITY. (a) An emergency medical services provider applicant must  
7 obtain a letter of approval from:

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

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

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

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

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

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

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

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

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

15           (3) an activation of a statewide emergency or disaster  
16 response by the department.

17           (d) This section does not apply to:

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

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

24           (d) Subchapter C, Chapter 773, Health and Safety Code, is  
25 amended by adding Section 773.06141 to read as follows:

26           Sec. 773.06141. SUSPENSION, REVOCATION, OR DENIAL OF  
27 EMERGENCY MEDICAL SERVICES PROVIDER LICENSE. (a) The

1 commissioner may suspend, revoke, or deny an emergency medical  
2 services provider license on the grounds that the provider's  
3 administrator of record, employee, or other representative:

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

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

13 (A) an offense listed in Sections 3g(a)(1)(A)  
14 through (H), Article 42.12, Code of Criminal Procedure; or

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

18 (3) has been convicted of Medicare or Medicaid fraud,  
19 has been excluded from participation in the state Medicaid program,  
20 or has a hold on payment for reimbursement under the state Medicaid  
21 program under Subchapter C, Chapter 531, Government Code.

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

24 (e) Notwithstanding Chapter 773, Health and Safety Code, as  
25 amended by this section, the Department of State Health Services  
26 may not issue any new emergency medical services provider licenses  
27 for the period beginning on September 1, 2013, and ending on August

1 31, 2014. The moratorium does not apply to the issuance of an  
2 emergency medical services provider license to a municipality,  
3 county, emergency services district, hospital, or emergency  
4 medical services volunteer provider organization in this state, or  
5 to an emergency medical services provider applicant who is applying  
6 to provide services in response to 9-1-1 calls and is located in a  
7 rural area, as that term is defined in Section 773.0045, Health and  
8 Safety Code.

9 (f) Section 773.0571, Health and Safety Code, as amended by  
10 this section, and Section 773.0573, Health and Safety Code, as  
11 added by this section, apply only to an application for approval of  
12 an emergency medical services provider license submitted to the  
13 Department of State Health Services on or after the effective date  
14 of this Act. An application submitted before the effective date of  
15 this Act is governed by the law in effect immediately before the  
16 effective date of this Act, and that law is continued in effect for  
17 that purpose.

18 (g) The changes in law made by this section apply only to an  
19 application for approval or renewal of an emergency medical  
20 services provider license submitted to the Department of State  
21 Health Services on or after the effective date of this Act. An  
22 application submitted before the effective date of this Act is  
23 governed by the law in effect immediately before the effective date  
24 of this Act, and that law is continued in effect for that purpose.

25 SECTION 10. Section 32.0322, Human Resources Code, is  
26 amended by amending Subsection (b) and adding Subsections (b-1),  
27 (e), and (f) to read as follows:

1           (b) Subject to Subsections (b-1) and (e), the ~~[The]~~  
2 executive commissioner of the Health and Human Services Commission  
3 by rule shall establish criteria for the department or the  
4 commission's office of inspector general to suspend a provider's  
5 billing privileges under the medical assistance program, revoke a  
6 provider's enrollment under the program, or deny a person's  
7 application to enroll as a provider under the program based on:

8                   (1) the results of a criminal history check;

9                   (2) any exclusion or debarment of the provider from  
10 participation in a state or federally funded health care program;

11                   (3) the provider's failure to bill for medical  
12 assistance or refer clients for medical assistance within a  
13 12-month period; or

14                   (4) any of the provider screening or enrollment  
15 provisions contained in 42 C.F.R. Part 455, Subpart E.

16           (b-1) In adopting rules under this section, the executive  
17 commissioner of the Health and Human Services Commission shall  
18 require revocation of a provider's enrollment or denial of a  
19 person's application for enrollment as a provider under the medical  
20 assistance program if the person has been excluded or debarred from  
21 participation in a state or federally funded health care program as  
22 a result of:

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

27                   (2) a criminal conviction for committing an act under

1 a state or federally funded health care program that caused bodily  
2 injury to:

3 (A) a person who is 65 years of age or older;

4 (B) a person with a disability; or

5 (C) a person under 18 years of age.

6 (e) The department may reinstate a provider's enrollment  
7 under the medical assistance program or grant a person's previously  
8 denied application to enroll as a provider, including a person  
9 described by Subsection (b-1), if the department finds:

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

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

16 (f) The department must support a determination made under  
17 Subsection (e) with written findings of good cause for the  
18 determination.

19 SECTION 11. Section 32.073, Human Resources Code, is  
20 amended by adding Subsection (c) to read as follows:

21 (c) Not later than the second anniversary of the date  
22 national standards for electronic prior authorization of benefits  
23 are adopted, the Health and Human Services Commission shall require  
24 a health benefit plan issuer participating in the medical  
25 assistance program or the agent of the health benefit plan issuer  
26 that manages or administers prescription drug benefits to exchange  
27 prior authorization requests electronically with a prescribing

1 provider participating in the medical assistance program who has  
2 electronic prescribing capability and who initiates a request  
3 electronically.

4 SECTION 12. Section 36.005, Human Resources Code, is  
5 amended by amending Subsection (b-1) and adding Subsections (e),  
6 (f), and (g) to read as follows:

7 (b-1) The period of ineligibility begins on the date on  
8 which the judgment finding the provider liable under Section 36.052  
9 is entered by the trial court [~~determination that the provider is~~  
10 ~~liable becomes final~~].

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

16 (f) For purposes of Subsection (e), a "physician" includes a  
17 physician, a professional association composed solely of  
18 physicians, a single legal entity authorized to practice medicine  
19 owned by two or more physicians, a nonprofit health corporation  
20 certified by the Texas Medical Board under Chapter 162, Occupations  
21 Code, or a partnership composed solely of physicians.

22 (g) For purposes of Subsection (e), "health care regulatory  
23 agency" has the meaning assigned by Section 774.001, Government  
24 Code.

25 SECTION 13. (a) The Health and Human Services Commission,  
26 in cooperation with the Department of State Health Services and the  
27 Texas Medical Board, shall:

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

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

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

15           (b) This section expires September 1, 2015.

16           SECTION 14. (a) The Department of State Health Services,  
17 in cooperation with the Health and Human Services Commission and  
18 the Texas Medical Board, shall:

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

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

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

4           (b) This section expires September 1, 2015.

5           SECTION 15. (a) The Texas Medical Board, in cooperation  
6 with the Department of State Health Services and the Health and  
7 Human Services Commission, shall:

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

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

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

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

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

24           (b) This section expires September 1, 2015.

25           SECTION 16. (a) The Health and Human Services Commission  
26 shall study the feasibility of developing and implementing a single  
27 standard prior authorization form to be used for requesting prior

1 authorization for prescription drugs in the medical assistance  
2 program by participating prescribers who do not have electronic  
3 prescribing capability and are not able to initiate electronic  
4 prior authorization requests. The commission shall complete the  
5 study not later than December 31, 2014.

6 (b) If the Health and Human Services Commission determines  
7 that developing and implementing the form described in Subsection  
8 (a) of this section is feasible, will reduce administrative  
9 burdens, and is cost-effective, the commission shall adjust  
10 contracts with participating health benefit plan issuers and  
11 participating health benefit plan administrators to require  
12 acceptance of the form.

13 SECTION 17. (a) The office of inspector general of the  
14 Health and Human Services Commission shall review the manner in  
15 which:

16 (1) the office investigates fraud, waste, and abuse in  
17 the supplemental nutrition assistance program under Chapter 33,  
18 Human Resources Code, including in the provision of benefits under  
19 that program; and

20 (2) the office coordinates with other state and  
21 federal agencies in conducting those investigations.

22 (b) Not later than September 1, 2014, and based on the  
23 review required by Subsection (a) of this section, the office of  
24 inspector general of the Health and Human Services Commission shall  
25 submit to the legislature a written report containing strategies  
26 for addressing fraud, waste, and abuse in the supplemental  
27 nutrition assistance program under Chapter 33, Human Resources

1 Code, including in the provision of benefits under that program.

2 (c) This section expires January 1, 2015.

3 SECTION 18. (a) This section is a clarification of  
4 legislative intent regarding Subsection (s), Section 32.024, Human  
5 Resources Code, and a validation of certain Health and Human  
6 Services Commission acts and decisions.

7 (b) In 1999, the legislature became aware that certain  
8 children enrolled in the Medicaid program were receiving treatment  
9 under the program outside the presence of a parent or another  
10 responsible adult. The treatment of unaccompanied children under  
11 the Medicaid program resulted in the provision of unnecessary  
12 services to those children, the exposure of those children to  
13 unnecessary health and safety risks, and the submission of  
14 fraudulent claims by Medicaid providers.

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

1           (d) In response, in 1999, the legislature enacted Chapter  
2 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session,  
3 1999, which amended Section 32.024, Human Resources Code, by  
4 amending Subsection (s) and adding Subsection (s-1). As amended,  
5 Subsection (s), Section 32.024, Human Resources Code, requires that  
6 a child's parent or guardian or another adult authorized by the  
7 child's parent or guardian accompany the child at a visit or  
8 screening under the early and periodic screening, diagnosis, and  
9 treatment program in order for a Medicaid provider to be reimbursed  
10 for services provided at the visit or screening. As filed, the bill  
11 required a child's parent or guardian to accompany the child. The  
12 house committee report added the language allowing an adult  
13 authorized by the child's parent or guardian to accompany the child  
14 in order to accommodate a parent or guardian for whom accompanying  
15 the parent's or guardian's child to each visit or screening would be  
16 a hardship.

17           (e) The legislature finds that:

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

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

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

1           (2) in enacting and enforcing administrative rules and  
2 policies to implement the parental accompaniment requirement of  
3 Subsection (s), Section 32.024, Human Resources Code, the Health  
4 and Human Services Commission should give special consideration and  
5 should reasonably accommodate the circumstances of a child who  
6 lives in a single parent or guardian family and whose parent or  
7 guardian:

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

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

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

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

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

23           (3) in developing reasonable accommodations described  
24 by this subsection, the Health and Human Services Commission should  
25 not allow the provider of a service or an affiliate of the provider  
26 to accompany the child as an authorized adult for purposes of  
27 Paragraph (B), Subdivision (2), Subsection (s), Section 32.024,

1 Human Resources Code.

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

11 (g) The legislature, in amending Subsection (s), Section  
12 32.024, Human Resources Code, understood that:

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

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

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

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

27 (h)(1) On March 15, 2012, the Health and Human Services

1 Commission notified certain Medicaid providers that state law and  
2 commission policy require a child's parent or guardian or another  
3 properly authorized adult to accompany a child receiving services  
4 under the Medicaid program. This notice followed the commission's  
5 discovery that some providers were transporting children from  
6 schools to therapy clinics and other locations to receive therapy  
7 services. Although the children were not accompanied by a parent or  
8 guardian during these trips, the providers were obtaining  
9 reimbursement for the trips under the Medicaid medical  
10 transportation program. The commission clarified in the notice  
11 that, in order for a provider to be reimbursed for transportation  
12 services provided to a child under the Medicaid medical  
13 transportation program, the child must be accompanied by the  
14 child's parent or guardian or another adult who is not the provider  
15 and whom the child's parent or guardian has authorized to accompany  
16 the child by submitting signed, written consent to the provider.

17 (2) In May 2012, a lawsuit was filed to enjoin the  
18 Health and Human Services Commission from enforcing Subsection (s),  
19 Section 32.024, Human Resources Code, and 1 T.A.C. Section 380.207,  
20 as interpreted in certain notices issued by the commission. A state  
21 district court enjoined the commission from denying eligibility to  
22 a child for transportation services under the Medicaid medical  
23 transportation program if the child's parent or guardian does not  
24 accompany the child, provided that the child's parent or guardian  
25 authorizes any other adult to accompany the child. The court also  
26 enjoined the commission from requiring as a condition for a  
27 provider to be reimbursed for services provided to a child during a

1 visit or screening under the early and periodic screening,  
2 diagnosis, and treatment program that the child be accompanied by  
3 the child's parent or guardian, provided that the child's parent or  
4 guardian authorizes another adult to accompany the child. The  
5 state has filed a notice of appeal of the court's order.

6 (3) The legislature declares that a rule or policy  
7 adopted by the Health and Human Services Commission before the  
8 effective date of this Act to require that, in order for a Medicaid  
9 provider to be reimbursed for services provided to a child under the  
10 early and periodic screening, diagnosis, and treatment program or  
11 the medical transportation program, the child must be accompanied  
12 by the child's parent or guardian or another adult whom the child's  
13 parent or guardian has authorized to accompany the child is  
14 conclusively presumed, as of the date the rule or policy was  
15 adopted, to be a valid exercise of the commission's authority and  
16 consistent with the intent of the legislature, provided that the  
17 rule or policy:

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

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

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

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

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

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

4           (5) This section does not apply to:

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

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

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

12           SECTION 19. As soon as practicable after the effective date of  
13 this Act, the executive commissioner of the Health and Human Services  
14 Commission shall establish the data analysis unit required under Section  
15 531.0082, Government Code, as added by this Act. The data analysis unit  
16 shall provide the initial update required under Subsection (d), Section  
17 531.0082, Government Code, as added by this Act, not later than the 30th  
18 day after the last day of the first complete calendar quarter occurring  
19 after the date the unit is established.

20           SECTION 20. If before implementing any provision of this  
21 Act a state agency determines that a waiver or authorization from a  
22 federal agency is necessary for implementation of that provision,  
23 the agency affected by the provision shall request the waiver or  
24 authorization and may delay implementing that provision until the  
25 waiver or authorization is granted.

26           SECTION 21. This Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 8 passed the Senate on April 15, 2013, by the following vote: Yeas 30, Nays 0, one present not voting; May 22, 2013, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2013, House granted request of the Senate; May 24, 2013, Senate adopted Conference Committee Report by the following vote: Yeas 27, Nays 4.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 8 passed the House, with amendments, on May 20, 2013, by the following vote: Yeas 144, Nays 0, two present not voting; May 23, 2013, House granted request of the Senate for appointment of Conference Committee; May 26, 2013, House adopted Conference Committee Report by the following vote: Yeas 105, Nays 38, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor