

SUBJECT: Prepayment reviews and payment holds for certain Medicaid providers

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Kolkhorst, Naishtat, Coleman, Gonzales, Hopson, S. King, Truitt

0 nays

4 absent — J. Davis, Laubenberg, McReynolds, Zerwas

SENATE VOTE: On final passage, April 30 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 2938:*)  
For — (*Registered, but did not testify:* Leticia Caballero, Texas Health Care Association; Jess Calvert, Texas Dental Association; Marshall Kenderdine, Texas Academy of Family Physicians; Mark Kennedy, Texas Medical Association; Carrie Kroll, Texas Pediatric Society; Denise Rose, Texas Hospital Association)

Against — None

On — (*Registered, but did not testify:* Michael Garbarino, Health and Human Services Commission, Office of Inspector General)

BACKGROUND: The Health and Human Services Commission (HHSC), through the commission's Office of Inspector General (OIG), is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of applicable state law.

HHSC, in consultation with the inspector general, sets the claims criteria that require the OIG to begin an investigation. Under certain conditions, the OIG may place a hold on Medicaid payments to a provider under investigation. The provider may request an expedited administrative hearing regarding the hold as well as an informal resolution to the hold.

DIGEST: SB 1542 would define certain processes related to payment holds to Medicaid providers and to conducting Medicaid prepayment reviews.

The executive commissioner of HHSC would adopt rules for the OIG, in consultation with the state Medicaid fraud control unit, about the circumstances under which the OIG permissively could or automatically would impose payment holds or program exclusions on a provider.

The bill details the information that would be required on the notice that the OIG would have to give to a provider that was subject to a hold on a Medicaid claim payment. The notice would have to state the nature of the payment hold and the reason the hold was being imposed.

The bill would establish a 60-day deadline from the date a provider requested either an informal resolution to or administrative hearing about a hold on payment imposed by the OIG. If the hearing was not scheduled or the informal resolution was not completed within this timeframe, the hold automatically would be terminated and only could be reinstated if sufficient evidence of fraud, waste, or abuse was presented.

Providers to whom it was determined that a held payment should be made would have to receive prompt payment, including interest at a rate equal to the prime rate on the first business day of the calendar year, plus one percent.

The OIG and the Office of the Attorney General would be required to develop and implement procedures for maintaining the confidentiality of records obtained during an investigation and assuring a provider would receive copies of any records that were taken.

SB 1542 would establish requirements for the rules governing the prepayment review of provider claims, including educating the provider about claims filing issues, outlining the criteria used to determine whether a prepayment review would be imposed, establishing the maximum length of a review, and establishing due process procedures for a provider placed on prepayment review status.

The bill would take effect September 1, 2009.

**NOTES:**

The House companion bill, HB 2938 by Truitt, was reported favorably, without amendment, by the House Public Health Committee and was placed on the General State Calendar, but no further action was taken.