

BILL ANALYSIS

Senate Research Center
83R6069 KKR-F

S.B. 1322
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State Affairs
4/23/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The major workers' compensation reforms included in H.B. 7, 79th Legislature, Regular Session, 2005, created a certified health care network option for employers to utilize to help manage the health care costs and treatment for injured workers. Workers' compensation health care networks had to meet certain statutory requirements and be certified by the Texas Department of Insurance (TDI) in order to operate in Texas. If an employer chose to contract with a certified health care network, all care, excluding pharmacy, had to be delivered through that network.

H.B. 473, 80th Legislature, Regular Session, 2007, required all voluntary and informal networks operating in the workers' compensation system to begin registering with TDI's division of workers' compensation. Effective January 1, 2011, in addition to registration of these informal and voluntary networks, the law prohibited any discount contracts for health care outside of a certified network.

H.B. 528, 82nd Legislature, Regular Session, 2011, allows discount contracts for pharmaceutical services when agreed upon by an insurance carrier and a registered voluntary or informal network. Thus, with the exception of pharmacy, no discounted health care services can be offered to injured employees unless they are delivered through a certified network.

Many employers have not contracted with a certified network and thus their insurance carrier is required to purchase durable medical equipment and home health services at fee schedule rates. Some employers who have established networks are finding that durable medical equipment and home health care service options can be limited.

For most durable medical equipment and home health services, there are few retail options for injured employees to access, thereby limiting an injured worker's choice in providers.

S.B. 1322 allows the establishment of voluntary and informal networks for durable medical equipment and home health services. This legislation will help reduce costs for employers, provide greater efficiency in delivering care to injured workers, and provide greater access to quality durable medical and home health services for injured workers.

As proposed, S.B. 1322 amends current law relating to the provision of ancillary services through limited services networks, and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1305.133, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1305, Insurance Code, by adding Subchapter C-1, as follows:

SUBCHAPTER C-1. LIMITED ANCILLARY SERVICES NETWORKS

Sec. 1305.131. **PURPOSE.** Provides that the purpose of this subchapter is to authorize the establishment of limited ancillary services networks for the provision of workers'

compensation ancillary services to injured employees; increase availability and access to ancillary services for injured employees; and provide for the authorization of vendors and suppliers of ancillary services.

Sec. 1305.132. **DEFINITIONS.** Defines "ancillary service" and "limited ancillary services network" for this section.

Sec. 1305.133. **AUTHORIZATION REQUIRED.** (a) Requires an ancillary services vendor or supplier, or a group of ancillary services vendors or suppliers, that seeks to provide services through a limited ancillary services network to obtain approval from the Texas Department of Insurance (TDI).

(b) Authorizes TDI to approve a request to provide ancillary services as a limited ancillary services network if each proposed ancillary services vendor or supplier within the network is registered with TDI and the proposed limited ancillary services network has an adequate number and distribution of ancillary services vendors and suppliers to provide services that are available and accessible to employees within the certified network.

(c) Requires the commissioner of insurance (commissioner) by rule to establish standards for the adequacy and accessibility of limited ancillary services networks.

Sec. 1305.134. **USE OF CERTAIN INSURANCE TERMS PROHIBITED.** Provides that a limited ancillary services network is not an insurer and is prohibited from using:

(1) the words "insurance," "casualty," "surety," or "mutual"; or

(2) any other word that is descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of an insurer or surety corporation engaging in the business of insurance in this state.

Sec. 1305.135. **CONTRACTS WITH CERTIFIED NETWORKS.** (a) Requires the certified network, if a certified network contracts with a limited ancillary services network to provide ancillary services, to provide notice regarding the limited ancillary services network to each employee receiving health care services under the certified network who will be affected by the use of a limited ancillary services network and ensure that a covered ancillary service that is not available within the limited ancillary services network is provided to an employee receiving health care services under the certified network at no additional cost to the employee.

(b) Authorizes the certified network and the limited ancillary services network to negotiate and enter into contracts for agreed upon reimbursement amounts.

(c) Requires that a contract between a certified network and a limited ancillary services network be filed with TDI.

(d) Provides that a contract filed with TDI under Subsection (c) is confidential and is not subject to disclosure as public information under Chapter 552 (Public Information), Government Code.

Sec. 1305.136. **APPLICABILITY OF OTHER LAW.** Provides that a limited ancillary services network established under this subchapter is not subject to any other provisions of this chapter except Subchapter L (Disciplinary Actions).

SECTION 2. Amends Section 1305.551(a), Insurance Code, to authorize the commissioner or a designated representative, if the commissioner determines that a certified network, insurance carrier, limited ancillary services network as defined by Section 1305.132, or any other person or third party operating under this chapter, including a third party to which a network delegates a function, or any third party with which a network contracts for management services, is in

violation of this chapter, rules adopted by the commissioner under this chapter, or applicable provisions of the Labor Code or rules adopted under that code, to notify the certified network, insurance carrier, limited ancillary services network, person, or third party of the alleged violation and to compel the production of any documents or other information as necessary to determine whether the violation occurred.

SECTION 3. Amends Section 1305.552, Insurance Code, to authorize the commissioner, if under Section 1305.551 (Determination of Violation; Notice) the commissioner determines that a certified network, insurance carrier, limited ancillary services network as defined by Section 1305.132, or other person or third party described under Section 1305.551 has violated or is violating this chapter, rules adopted by the commissioner under this chapter, or the Labor Code or rules adopted under that code, to impose certain sanctions, including to suspend or revoke a certificate or other authorization issued under this code.

SECTION 4. Amends Subchapter B, Chapter 408, Labor Code, by adding Section 408.0283, as follows:

Sec. 408.0283. REIMBURSEMENT FOR ANCILLARY SERVICES. (a) Defines "ancillary service" and "limited ancillary services network" in this section.

(b) Requires an ancillary services vendor or supplier, or a group of ancillary services vendors or suppliers, that seeks to provide services under contract with a workers' compensation insurance carrier through a limited ancillary services network to obtain approval from the division of worker's compensation of TDI (division).

(c) Authorizes the division to approve a request to provide ancillary services through a limited ancillary services network if the proposed ancillary services vendor or supplier within the network is registered with TDI.

(d) Requires the carrier, if an insurance carrier contracts with a limited ancillary services network to provide ancillary services, to provide notice regarding the limited ancillary services network to each employee who will be affected by the use of a limited ancillary services network and ensure that a covered ancillary service that is not available within the limited ancillary services network is provided to an employee receiving health care services at no additional cost to the employee.

(e) Requires that a contract between an insurance carrier and a limited ancillary services network be filed with the division.

(f) Provides that a contract filed with the division under Subsection (e) is confidential and is not subject to disclosure as public information under Chapter 552, Government Code.

(g) Authorizes ancillary services provided through a limited ancillary services network approved by the division, notwithstanding any other provision of this title, Section 504.053 (Election), or any provision of Chapter 1305 (Workers' Compensation Health Care Networks), Insurance Code, to be reimbursed in accordance with the fee guidelines adopted by the commissioner or at a contract rate in accordance with this section.

(h) Provides that, notwithstanding Section 1305.003(b) (relating to a conflict between Title 5 (Open Government; Ethics), Labor Code and the provision of medical benefits), Insurance Code, in the event of a conflict between this section and Section 413.016 (Payments in Violation of Medical Policies and Fee Guidelines) or any other provision of Chapter 413 (Medical Review) of this code or Chapter 1305, Insurance Code, this section prevails.

SECTION 5. Effective date: September 1, 2013.