



Texas Association of Health Plans
1001 Congress Ave., Suite 300
Austin, Texas 78701
P: 512.476.2091
www.tahp.org

April 25, 2023

Re: TAHP Opposes HB 5018

Dear Chairman Frank and Members of the House Committee on Human Services,

The Texas Association of Health Plans (TAHP) is the statewide trade association representing health insurers, HMOs, Medicaid managed care, and other health plans that serve over 20 million Texans. Our members are committed to improving access to affordable, quality health care in Texas.

TAHP opposes HB 5018 because it creates unnecessary delays in managed care plans' efforts to recover payments made to providers suspected of fraud and abuse involving the state's Electronic Visit Verification (EVV) system.

The federal government mandates the use of EVV by attendants delivering Medicaid services to confirm that services were delivered. EVV electronically documents and verifies in-home personal care or home health care service delivery by recording the date, time, service type, and location through a smartphone, tablet, home phone landline, or other state-approved devices.

The Health and Human Services [Office of Inspector General has repeatedly discovered fraudulent misuse of the EVV system](#), including cases where attendants do not show up but still clock in as if they are providing services. Examples include attendants clocking in without providing services, clocking in after a client's death, or clocking in at a client's home while the client is in an inpatient facility.

However, it is important to note that a vast majority of personal care attendants work hard to help people on Medicaid who are sick or disabled continue to live in their homes. This is why, in 2019, the Texas Legislature enacted legislation aimed at striking a balance between allowing MCOs to recoup payments from providers who fraudulently used the EVV system and ensuring due process, without imposing excessive burdens or causing provider abrasion. SB 1991 (86R) required the Health and Human Services Commission (HHSC) to establish due process procedures an MCO must follow in order to recoup an overpayment made to a provider related to



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missing EVV information. SB 1991 required that an MCO must give a provider at least 60 days to correct a deficiency in a claim before the MCO begins any efforts to recoup any overpayments.

SB 1911 aimed to ensure that the state's EVV rules were not overly burdensome for compliant providers. HHSC worked closely with stakeholders, including the Texas Association for Home Care and Hospice, MCOs, and licensed home and community support services agencies, to develop these rules. During this process, HHSC received provider feedback confirming that the rules aligned with legislative intent.

TAHP is concerned that HB 5018 would undermine the progress made with SB 1911 by amending rules related to fraud and abuse. The proposed legislation would permit providers, after they have exhausted all appeal rights, to submit additional documentation for the claim or resubmit the claim before an MCO may initiate recoupment efforts. We believe this essentially creates a loophole for providers to avoid recoupment even after exhausting all appeals, potentially resulting in a permanent delay of MCO recovery efforts.

In light of these concerns, we respectfully request that you oppose HB 5018, as it could significantly hinder fraud and abuse recovery efforts by MCOs.

Sincerely,

A handwritten signature in black ink that reads "Jessica Lynch". The signature is written in a cursive, flowing style.

Jessica Lynch
Director of Policy & Medicaid Operations
Texas Association of Health Plans