TAHP
The Texas Association of Health Plans

Texas Association of Health Plans
1001 Congress Ave., Suite 300
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April 11, 2023

Dear Chairman Oliverson and Members of the House Insurance Committee

As the statewide trade association representing health insurers, HMOs, Medicaid managed care, and other health plans that serve over 20 million Texans, the Texas Association of Health Plans (TAHP) is committed to ensuring that Texas families and employers have access to affordable, comprehensive, and high-quality coverage. One threat to this affordability is the growing number of mandates that are considered and passed by the Texas Legislature.

TAHP is opposed to HB 3195, as it would create a new claims payment review process that is unworkable and would create challenges in recovering any claims overpayment. However, TAHP has offered language to the bill author's office that would address our concerns.

While some of the provisions in the bill are either acceptable or already required, the most significant concern is with the external advisory review panel for all overpayment and audit appeals. The mandated process of convening three practicing network physicians of the same specialty or provider type to review each claim appeal would be, quite literally, impossible to accomplish. This would result in health plans effectively being required to make initial payments under prompt pay laws before being able to investigate claims and then being prohibited from reviewing those claims after payment.

The bill would also create an extremely burdensome review process at the Texas Department of Insurance (TDI) and the State Office of Administrative Hearings (SOAH). This would create an unprecedented, multi-layered bureaucratic process for review of potentially every claim paid by a health plan. Each claim review would be considered a contested case under the Texas Administrative Procedures Act, creating an expensive litigation process. Importantly, a claim that has all the completed elements required to be a "clean" claim under TDI rules may not be a payable claim, but under the prompt pay laws, a health plan must pay the full claim, even if the issuer needs to review, investigate, or "audit" that claim. This bill would subject all of these audits to administrative litigation.

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Taken together, these provisions will make it impossible for health plans to review claims after required "prompt payments," which is how plans address claims that are fraudulent or simply not covered. Prompt payment laws already limit pre-payment investigations for fraud, and now this bill will effectively prohibit those investigations after the required payment has been made. The bill will result in a "guarantee of payment" for virtually all complete claims submitted to health plans, with a *de facto* prohibition on investigating claims for fraud or even accuracy.

We appreciate your careful consideration of this bill, and how it would harm the Texas insurance market. Please contact us if you have any questions or concerns.

Sincerely,

M. Blake Hutson

Blake Hutson
Texas Association of Health Plans