SB 2476 and HB 1592

Rule Adoption

December 15, 2023

ADVOCACY UPDATE
TAHP

TDI has adopted final rules implementing SB 2476, which prohibits surprise bills for all ground ambulance services and establishes a payment methodology instead of requiring the state IDR processes, and implementing HB 1592, which allows self-funded plans to opt into state surprise billing laws. TAHP submitted comments on the proposal, and **the agency agreed with nearly all of them.**

The details of the SB 2476 rules:

- Prohibits out-of-network ambulance providers from sending surprise bills to patients enrolled in **state-regulated health plans, ERS, and TRS**.
- Prohibits EMS providers from issuing a bill to an insurer that exceeds the amount of the rate set by the political subdivision.
- Establishes a portal on TDI's website where political subdivisions may **annually submit EMS rates** for applicable zip codes
- **Plan years that start before 9/1/24:** For out-of-network EMS claims, the insurer must pay:
    - If there is a published rate, the lesser of the billed charge or the rate for that political subdivision in the rate database.
    - If there is not a published rate, the lesser of the billed charge or 325% of the current Medicare rate
- **Plan years that start on or after 9/1/24:** For out-of-network EMS claims, the insurer must pay the lesser of:
    - The billed charge;
    - The rate in the database for calendar year 2024 increased by 10%; or
    - The rate in the database for calendar year 2024 increased by the Medicare Economic Index rate that applies to the first day of the new plan year.
- **If a zip code falls in multiple political subdivisions,** the agency expects insurers to act in good faith when providing a reimbursement and use existing internal appeal processes to settle any underpayments.

www.tahp.org
(512) 476-2091
jdudensing@tahp.org

The details of the HB 1592 rules:

- Allows plan sponsors of fully-funded ERISA plans to opt-in to state balance billing laws by providing identifying information to TDI as specified on their website.
- The effective date of an election must be at least 30 days after the date the identifying information is submitted to TDI. Elections apply only to the relevant plan year, and the sponsor may not opt out until the end of that relevant plan year.
- While **plan-specific language was removed** from the proposed rule, EOBs to providers and patients in opted-in plans must include a statement substantially similar to the following:
    - *The plan sponsor has opted in to the Texas Independent Dispute Resolution Process under Insurance Code Chapter 1275 for this plan year. A dispute related to this claim must proceed through the Texas process and may not proceed through the Federal No Surprises Act Independent Dispute Resolution Process. The request for mediation or arbitration must identify the plan type as 'ERISA Opt-In.'*
- ID Cards issued to enrollees of opted-in plans **must include "TXI"** on the front.
- In the preamble of the adoption, TDI confirmed that the state balance billing laws, including the EOB and ID card requirements, for opted-in plans **do not apply to enrollees who reside outside of Texas**.