

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE I. HEALTH AND HUMAN SERVICES

CHAPTER 538. MEDICAID QUALITY IMPROVEMENT PROCESS FOR CLINICAL
INITIATIVES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 538.002. EFFECT OF CHAPTER; AUTHORITY OF COMMISSION. This chapter does not affect or give the commission additional authority to:

(1) affect any individual health care treatment decision for a Medicaid recipient;

(2) replace or affect the process of determining Medicaid benefits, including the approval process for receiving benefits for durable medical equipment, or any applicable approval process required for reimbursement for services or other equipment under Medicaid;

(3) implement a clinical initiative or associated rule or program policy that is otherwise prohibited under state or federal law; or

(4) implement any initiative that would expand eligibility for benefits under Medicaid.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. [1542](#)), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 2.271, eff. April 2, 2015.

Sec. 538.003. RULES. The executive commissioner shall adopt rules necessary to implement this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. [1542](#)), Sec. 1, eff. June 14, 2013.

SUBCHAPTER B. MEDICAID QUALITY IMPROVEMENT PROCESS TO ASSESS
CERTAIN CLINICAL INITIATIVES

Sec. 538.051. MEDICAID QUALITY IMPROVEMENT PROCESS. The commission shall, according to the provisions of this chapter, develop and implement a quality improvement process by which the commission:

(1) receives suggestions for clinical initiatives designed to improve:

(A) the quality of care provided under Medicaid; and

(B) the cost-effectiveness of Medicaid;

(2) conducts a preliminary review under Section 538.053(4) of each suggestion received under Section 538.052 to determine whether the suggestion warrants further consideration and analysis; and

(3) conducts an analysis under Section 538.054 of clinical initiative suggestions that are selected for analysis under Subdivision (2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.272, eff. April 2, 2015.

Sec. 538.052. SOLICITATION OF SUGGESTIONS FOR CLINICAL INITIATIVES.

(a) Subject to Subsection (b), the commission shall solicit and accept suggestions for clinical initiatives, in either written or electronic form, from:

(1) a member of the state legislature;

(2) the executive commissioner;

(3) the commissioner of aging and disability services;

(4) the commissioner of state health services;

(5) the commissioner of the Department of Family and Protective Services;

(6) the commissioner of assistive and rehabilitative services;

(7) the medical care advisory committee established under Section 32.022, Human Resources Code; and

(8) the physician payment advisory committee created under Section 32.022(d), Human Resources Code.

(b) The commission may not accept suggestions under this section for an initiative that:

(1) is undergoing clinical trials; or

(2) expands a health care provider's scope of practice beyond the law governing the provider's practice.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.273, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.31, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.31, eff. January 1, 2016.

Sec. 538.053. CLINICAL INITIATIVE EVALUATION PROCESS. The commission shall establish and implement an evaluation process for the submission, preliminary review, analysis, and approval of a clinical initiative. The process must:

(1) require that a suggestion for a clinical initiative be submitted to the state Medicaid director;

(2) require that a suggestion for a clinical initiative selected for analysis under Section 538.054 be published on the Internet website created under Section 538.056 not later than the 30th day after the date on which the state Medicaid director receives the suggestion;

(3) provide for a formal public comment period that lasts at least 30 days during which the public may submit comments and research relating to a suggested clinical initiative;

(4) allow the commission to conduct with the assistance of appropriate advisory committees or similar groups as determined by the commission a preliminary review of each suggested clinical initiative to determine whether the initiative warrants further consideration and analysis under Section 538.054;

(5) limit the number of suggestions that receive

analysis under Section 538.054;

(6) require the commission to publish on the Internet website created under Section 538.056 the criteria the commission uses in the preliminary review under Subdivision (4) to determine whether an initiative warrants analysis under Section 538.054;

(7) require commission employees to perform an analysis of each suggested clinical initiative selected for analysis in accordance with Section 538.054; and

(8) require the development and publication of a final report in accordance with Section 538.055 on each clinical initiative selected for analysis under Section 538.054 not later than the 180th day after the date on which the state Medicaid director receives the suggestion.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Sec. 538.054. ANALYSIS OF CLINICAL INITIATIVES. The commission shall conduct an analysis of each clinical initiative selected by the commission after having conducted the commission's preliminary review under Section 538.053(4). The analysis required under this section must include a review of:

(1) any public comments and submitted research relating to the initiative;

(2) the available clinical research and historical utilization information relating to the initiative;

(3) published medical literature relating to the initiative;

(4) any adoption of the initiative by medical societies or other clinical groups;

(5) whether the initiative has been implemented under:
(A) the Medicare program;
(B) another state medical assistance program; or
(C) a state-operated health care program, including the child health plan program;

(6) the results of reports, research, pilot programs, or clinical studies relating to the initiative conducted by:

(A) institutions of higher education, including

related medical schools;

(B) governmental entities and agencies; and

(C) private and nonprofit think tanks and research groups;

(7) the impact that the initiative would have on Medicaid if the initiative were implemented in this state, including:

(A) an estimate of the number of recipients under Medicaid that would be impacted by implementation of the initiative; and

(B) a description of any potential cost savings to the state that would result from implementation of the initiative; and

(8) any statutory barriers to implementation of the initiative.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.274, eff. April 2, 2015.

Sec. 538.055. FINAL REPORT ON CLINICAL INITIATIVE. The commission shall prepare a final report based on the commission's analysis of a clinical initiative under Section 538.054. The final report must include:

(1) a final determination of:

(A) the feasibility of implementing the initiative;

(B) the likely impact implementing the initiative would have on the quality of care provided under Medicaid; and

(C) the anticipated cost savings to the state that would result from implementing the initiative;

(2) a summary of the public comments, including a description of any opposition to the initiative;

(3) an identification of any statutory barriers to implementation of the initiative; and

(4) if the initiative is not implemented, an explanation of the decision not to implement the initiative.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.275, eff. April 2, 2015.

Sec. 538.056. INTERNET WEBSITE. The commission shall maintain an Internet website related to the quality improvement process required under this chapter. The website must include:

(1) an explanation of the process for submission, preliminary review, analysis, and approval of clinical initiatives under this chapter;

(2) an explanation of how members of the public may submit comments or research related to an initiative;

(3) a copy of each initiative selected for analysis under Section 538.054;

(4) the status of each initiative in the approval process; and

(5) a copy of each final report prepared under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. 1542), Sec. 1, eff. June 14, 2013.

Sec. 538.057. ACTION ON CLINICAL INITIATIVE BY COMMISSION. After the commission conducts an analysis of a clinical initiative under Section 538.054:

(1) if the commission has determined that the initiative is cost-effective and will improve the quality of care under Medicaid, the commission may:

(A) implement the initiative if implementation of the initiative is not otherwise prohibited by law; or

(B) if implementation requires a change in law, submit a copy of the final report together with recommendations relating to the initiative's implementation to the standing committees of the senate and house of representatives having

jurisdiction over Medicaid; and

(2) if the commission has determined that the initiative is not cost-effective or will not improve quality of care under Medicaid, the commission may not implement the initiative.

Added by Acts 2013, 83rd Leg., R.S., Ch. 619 (S.B. [1542](#)), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 2.276, eff. April 2, 2015.