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S.B. No. 2028

A BILL TO BE ENTITLED

AN ACT

relating to the Medicaid program, including the administration and operation of the Medicaid managed care program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.024142, 531.02493, 531.0501, 531.0512, and 531.0605 to read as follows:

Sec. 531.024142. NONHOSPITAL AMBULANCE TRANSPORT AND TREATMENT PROGRAM. (a) The commission by rule shall develop and implement a program designed to improve quality of care and lower costs in Medicaid by:

(1) reducing avoidable transports to hospital emergency departments and unnecessary hospitalizations;

(2) encouraging transports to alternative care settings for appropriate care; and

(3) providing greater flexibility to ambulance care providers to address the emergency health care needs of Medicaid recipients following a 9-1-1 emergency services call.

(b) The program must be substantially similar to the Centers for Medicare and Medicaid Services' Emergency Triage, Treat, and Transport (ET3) model.

Sec. 531.02493. CERTIFIED NURSE AIDE PROGRAM. (a) The commission shall study:

(1) the cost-effectiveness of providing, as a Medicaid

1 benefit through a certified nurse aide trained in the Grand-Aide
2 curriculum or a substantially similar training program, in-home
3 support to a Medicaid recipient's care team after the recipient's
4 discharge from a hospital; and

5 (2) the feasibility of allowing a Medicaid managed
6 care organization to treat payments to certified nurse aides
7 providing care as described by Subdivision (1) as quality
8 improvement costs.

9 (b) Not later than December 1, 2022, the commission shall
10 prepare and submit a report to the governor and the legislature that
11 summarizes the commission's findings and conclusions from the
12 study.

13 (c) This section expires September 1, 2023.

14 Sec. 531.0501. MEDICAID WAIVER PROGRAMS: INTEREST LIST
15 MANAGEMENT. (a) The commission, in consultation with the
16 Intellectual and Developmental Disability System Redesign Advisory
17 Committee established under Section 534.053 and the STAR Kids
18 Managed Care Advisory Committee, shall study the feasibility of
19 creating an online portal for individuals to request to be placed
20 and check the individual's placement on a Medicaid waiver program
21 interest list. As part of the study, the commission shall determine
22 the most cost-effective automated method for determining the level
23 of need of an individual seeking services through a Medicaid waiver
24 program.

25 (b) Not later than January 1, 2023, the commission shall
26 prepare and submit a report to the governor, the lieutenant
27 governor, the speaker of the house of representatives, and the

1 standing legislative committees with primary jurisdiction over
2 health and human services that summarizes the commission's findings
3 and conclusions from the study.

4 (c) Subsections (a) and (b) and this subsection expire
5 September 1, 2023.

6 (d) The commission shall develop a protocol in the office of
7 the ombudsman to improve the capture and updating of contact
8 information for an individual who contacts the office of the
9 ombudsman regarding Medicaid waiver programs or services.

10 Sec. 531.0512. NOTIFICATION REGARDING CONSUMER DIRECTION
11 MODEL. The commission shall:

12 (1) develop a procedure to:

13 (A) verify that a Medicaid recipient or the
14 recipient's parent or legal guardian is informed regarding the
15 consumer direction model and provided the option to choose to
16 receive care under that model; and

17 (B) if the individual declines to receive care
18 under the consumer direction model, document the declination; and

19 (2) ensure that each Medicaid managed care
20 organization implements the procedure.

21 Sec. 531.0605. ADVANCING CARE FOR EXCEPTIONAL KIDS PILOT
22 PROGRAM. (a) The commission shall collaborate with Medicaid
23 managed care organizations and the STAR Kids Managed Care Advisory
24 Committee to develop and implement a pilot program that is
25 substantially similar to the program described by Section 3,
26 Medicaid Services Investment and Accountability Act of 2019 (Pub.
27 L. No. 116-16), to provide coordinated care through a health home

1 to children with complex medical conditions.

2 (b) The commission shall seek guidance from the Centers for
3 Medicare and Medicaid Services and the United States Department of
4 Health and Human Services regarding the design of the program and,
5 based on the guidance, may actively seek and apply for federal
6 funding to implement the program.

7 (c) Not later than December 31, 2024, the commission shall
8 prepare and submit a report to the legislature that includes:

9 (1) a summary of the commission's implementation of
10 the pilot program; and

11 (2) if the pilot program has been operating for a
12 period sufficient to obtain necessary data, a summary of the
13 commission's evaluation of the effect of the pilot program on the
14 coordination of care for children with complex medical conditions
15 and a recommendation as to whether the pilot program should be
16 continued, expanded, or terminated.

17 (d) The pilot program terminates and this section expires
18 September 1, 2025.

19 SECTION 2. Section [533.00251](#), Government Code, is amended
20 by adding Subsection (h) to read as follows:

21 (h) In addition to the minimum performance standards the
22 commission establishes for nursing facility providers seeking to
23 participate in the STAR+PLUS Medicaid managed care program, the
24 executive commissioner shall adopt rules establishing minimum
25 performance standards applicable to nursing facility providers
26 that participate in the program. The commission is responsible for
27 monitoring provider performance in accordance with the standards

1 and requiring corrective actions, as the commission determines
2 necessary, from providers that do not meet the standards. The
3 commission shall share data regarding the requirements of this
4 subsection with STAR+PLUS Medicaid managed care organizations as
5 appropriate.

6 SECTION 3. Subchapter A, Chapter 533, Government Code, is
7 amended by adding Section 533.00515 to read as follows:

8 Sec. 533.00515. MEDICATION THERAPY MANAGEMENT. The
9 executive commissioner shall collaborate with Medicaid managed
10 care organizations to implement medication therapy management
11 services to lower costs and improve quality outcomes for recipients
12 by reducing adverse drug events.

13 SECTION 4. Section 533.009(c), Government Code, is amended
14 to read as follows:

15 (c) The executive commissioner, by rule, shall prescribe
16 the minimum requirements that a managed care organization, in
17 providing a disease management program, must meet to be eligible to
18 receive a contract under this section. The managed care
19 organization must, at a minimum, be required to:

20 (1) provide disease management services that have
21 performance measures for particular diseases that are comparable to
22 the relevant performance measures applicable to a provider of
23 disease management services under Section 32.057, Human Resources
24 Code; ~~and~~

25 (2) show evidence of ability to manage complex
26 diseases in the Medicaid population; and

27 (3) if a disease management program provided by the

1 organization has low active participation rates, identify the
2 reason for the low rates and develop an approach to increase active
3 participation in disease management programs for high-risk
4 recipients.

5 SECTION 5. Section 32.028, Human Resources Code, is amended
6 by adding Subsection (p) to read as follows:

7 (p) The executive commissioner shall establish a
8 reimbursement rate for medication therapy management services.

9 SECTION 6. Section 32.054, Human Resources Code, is amended
10 by adding Subsection (f) to read as follows:

11 (f) To prevent serious medical conditions and reduce
12 emergency room visits necessitated by complications resulting from
13 a lack of access to dental care, the commission shall provide
14 medical assistance reimbursement for preventive dental services,
15 including reimbursement for at least one preventive dental care
16 visit per year, for an adult recipient with a disability who is
17 enrolled in the STAR+PLUS Medicaid managed care program. This
18 subsection does not apply to an adult recipient who is enrolled in
19 the STAR+PLUS home and community-based services (HCBS) waiver
20 program. This subsection may not be construed to reduce dental
21 services available to persons with disabilities that are otherwise
22 reimbursable under the medical assistance program.

23 SECTION 7. Subchapter B, Chapter 32, Human Resources Code,
24 is amended by adding Sections 32.0317 and 32.0611 to read as
25 follows:

26 Sec. 32.0317. REIMBURSEMENT FOR SERVICES PROVIDED UNDER
27 SCHOOL HEALTH AND RELATED SERVICES PROGRAM. The executive

1 commissioner shall adopt rules requiring parental consent for
2 services provided under the school health and related services
3 program in order for a school district to receive reimbursement for
4 the services. The rules must allow a school district to seek a
5 waiver to receive reimbursement for services provided to a student
6 who does not have a parent or legal guardian who can provide
7 consent.

8 Sec. 32.0611. COMMUNITY ATTENDANT SERVICES: QUALITY
9 INITIATIVES AND EDUCATION INCENTIVES. (a) The commission shall
10 develop specific quality initiatives for attendants providing
11 community attendant services to improve quality outcomes for
12 recipients.

13 (b) The commission shall coordinate with the Texas Higher
14 Education Coordinating Board and the Texas Workforce Commission to
15 develop a program to facilitate the award of academic or workforce
16 education credit for programs of study or courses of instruction
17 leading to a degree, certificate, or credential in a health-related
18 field based on an attendant's work experience providing community
19 attendant services.

20 SECTION 8. (a) In this section, "commission," "executive
21 commissioner," and "Medicaid" have the meanings assigned by Section
22 [531.001](#), Government Code.

23 (b) Using existing resources, the commission shall:

24 (1) review the commission's staff rate enhancement
25 programs to:

26 (A) identify and evaluate methods for improving
27 administration of those programs to reduce administrative barriers

1 that prevent an increase in direct care staffing and direct care
2 wages and benefits in nursing homes; and

3 (B) develop recommendations for increasing
4 participation in the programs;

5 (2) revise the commission's policies regarding the
6 quality incentive payment program (QIPP) to require improvements to
7 staff-to-patient ratios in nursing facilities participating in the
8 program by January 1, 2023;

9 (3) examine, in collaboration with the Department of
10 Family and Protective Services, implementation in other states of
11 the Centers for Medicare and Medicaid Services' Integrated Care for
12 Kids (InCK) Model to determine whether implementing the model could
13 benefit children in this state, including children enrolled in the
14 STAR Health Medicaid managed care program; and

15 (4) identify factors influencing active participation
16 by Medicaid recipients in disease management programs by examining
17 variations in:

18 (A) eligibility criteria for the programs; and

19 (B) participation rates by health plan, disease
20 management program, and year.

21 (c) The executive commissioner may approve a capitation
22 payment system that provides for reimbursement for physicians under
23 a primary care capitation model or total care capitation model.

24 SECTION 9. (a) In this section, "commission" and
25 "Medicaid" have the meanings assigned by Section [531.001](#),
26 Government Code.

27 (b) As soon as practicable after the effective date of this

1 Act, the commission shall conduct a study to determine the
2 cost-effectiveness and feasibility of providing to Medicaid
3 recipients who have been diagnosed with diabetes, including Type 1
4 diabetes, Type 2 diabetes, and gestational diabetes:

5 (1) diabetes self-management education and support
6 services that follow the National Standards for Diabetes
7 Self-Management Education and Support and that may be delivered by
8 a certified diabetes educator; and

9 (2) medical nutrition therapy services.

10 (c) If the commission determines that providing one or both
11 of the types of services described by Subsection (b) of this section
12 would improve health outcomes for Medicaid recipients and lower
13 Medicaid costs, the commission shall, notwithstanding Section
14 [32.057](#), Human Resources Code, or Section [533.009](#), Government Code,
15 and to the extent allowed by federal law develop a program to
16 provide the benefits and seek prior approval from the Legislative
17 Budget Board before implementing the program.

18 SECTION 10. (a) In this section, "commission," "Medicaid,"
19 and "Medicaid managed care organization" have the meanings assigned
20 by Section [531.001](#), Government Code.

21 (b) As soon as practicable after the effective date of this
22 Act, the commission shall conduct a study to:

23 (1) identify benefits and services, other than
24 long-term services and supports, provided under Medicaid that are
25 not provided in this state under the Medicaid managed care model;
26 and

27 (2) evaluate the feasibility, cost-effectiveness, and

1 impact on Medicaid recipients of providing the benefits and
2 services identified under Subdivision (1) of this subsection
3 through the Medicaid managed care model.

4 (c) Not later than December 1, 2022, the commission shall
5 prepare and submit a report to the legislature that includes:

6 (1) a summary of the commission's evaluation under
7 Subsection (b)(2) of this section; and

8 (2) a recommendation as to whether the commission
9 should implement providing benefits and services identified under
10 Subsection (b)(1) of this section through the Medicaid managed care
11 model.

12 SECTION 11. (a) In this section:

13 (1) "Commission," "Medicaid," and "Medicaid managed
14 care organization" have the meanings assigned by Section [531.001](#),
15 Government Code.

16 (2) "Dually eligible individual" has the meaning
17 assigned by Section [531.0392](#), Government Code.

18 (b) The commission shall conduct a study regarding dually
19 eligible individuals who are enrolled in the Medicaid managed care
20 program. The study must include an evaluation of:

21 (1) Medicare cost-sharing requirements for those
22 individuals;

23 (2) the cost-effectiveness for a Medicaid managed care
24 organization to provide all Medicaid-eligible services not covered
25 under Medicare and require cost-sharing for those services; and

26 (3) the impact on dually eligible individuals and
27 Medicaid providers that would result from the implementation of

1 Subdivision (2) of this subsection.

2 (c) Not later than September 1, 2022, the commission shall
3 prepare and submit a report to the legislature that includes:

4 (1) a summary of the commission's findings from the
5 study conducted under Subsection (b) of this section; and

6 (2) a recommendation as to whether the commission
7 should implement Subsection (b)(2) of this section.

8 SECTION 12. Notwithstanding Section 2, Chapter 1117 (H.B.
9 3523), Acts of the 84th Legislature, Regular Session, 2015, Section
10 [533.00251\(c\)](#), Government Code, as amended by Section 2 of that Act,
11 takes effect September 1, 2023.

12 SECTION 13. As soon as practicable after the effective date
13 of this Act, the Health and Human Services Commission shall conduct
14 the study and make the determination required by Section
15 531.0501(a), Government Code, as added by this Act.

16 SECTION 14. If before implementing any provision of this
17 Act a state agency determines that a waiver or authorization from a
18 federal agency is necessary for implementation of that provision,
19 the agency affected by the provision shall request the waiver or
20 authorization and may delay implementing that provision until the
21 waiver or authorization is granted.

22 SECTION 15. The Health and Human Services Commission is
23 required to implement this Act only if the legislature appropriates
24 money specifically for that purpose. If the legislature does not
25 appropriate money specifically for that purpose, the commission
26 may, but is not required to, implement this Act using other
27 appropriations available for the purpose.

1 SECTION 16. This Act takes effect September 1, 2021.