

By: VanDeaver

H.B. No. 1238

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the school health and related services program,
3 including parental consent for program services, the establishment
4 of a school health and related services program advisory council,
5 and the publication of the Texas Medicaid Provider Procedures
6 Manual.

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

8 SECTION 1. Subchapter A, Chapter 38, Education Code, is
9 amended by adding Section 38.035 to read as follows:

10 Sec. 38.035. SCHOOL HEALTH AND RELATED SERVICES PROGRAM:
11 PARENTAL CONSENT. (a) For each student for which a school district
12 or open-enrollment charter school may request reimbursement under
13 the school health and related services program during a school
14 year, the district or school shall obtain written parental consent
15 for disclosure to the district or school, the agency, or the Health
16 and Human Services Commission, of the student's personally
17 identifiable information, as necessary to administer the program.

18 (b) The parent's written consent under Subsection (a) must
19 be in a form that satisfies the requirements of the Family
20 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
21 1232g).

22 (c) A school district or open-enrollment charter school
23 shall provide a copy of a parent's written consent under Subsection
24 (a) to the agency and the Health and Human Services Commission for

1 the agency and the commission to maintain in the agency's and the
2 commission's records as necessary to administer the program.

3 (d) Parental consent obtained in compliance with Subsection
4 (a) for a school year is sufficient for all program-related
5 purposes of the agency or the Health and Human Services Commission
6 involving the use of a student's personally identifiable
7 information for the remainder of that year, including in preparing
8 cost reports under the program. The district or school, the agency,
9 or the commission may not require additional parental consent other
10 than the written consent described by Subsection (a) for any
11 program-related purpose.

12 SECTION 2. Subchapter B, Chapter 531, Government Code, is
13 amended by adding Section 531.021183 to read as follows:

14 Sec. 531.021183. TEXAS MEDICAID PROVIDER PROCEDURES
15 MANUAL. (a) Not later than July 1st of each year, the commission
16 shall publish an update to the Texas Medicaid Provider Procedures
17 Manual for providers of services to Medicaid recipients.

18 (b) For at least 60 days before publishing an update to the
19 Texas Medicaid Provider Procedures Manual, the executive
20 commissioner by rule shall establish a procedure allowing the
21 public to inspect and comment on proposed changes to the manual in
22 the same manner that public inspection and comment is provided in
23 the rulemaking process under Chapter 2001.

24 (c) The commission shall consult the advisory council
25 established under Chapter 106, Health and Safety Code, regarding
26 any proposed changes to the manual.

27 SECTION 3. Subtitle E, Title 2, Health and Safety Code, is

1 amended by adding Chapter 106 to read as follows:

2 CHAPTER 106. SCHOOL HEALTH AND RELATED SERVICES PROGRAM

3 ADVISORY COUNCIL

4 Sec. 106.001. DEFINITIONS. In this chapter:

5 (1) "Advisory council" means the school health and
6 related services program advisory council established under this
7 chapter.

8 (2) "Agency" means the Texas Education Agency.

9 (3) "Procedures manual" means the Texas Medicaid
10 Provider Procedures Manual described by Section 531.021183,
11 Government Code.

12 (4) "Program" means the school health and related
13 services program under which certain health-related services
14 provided under a student's individualized education program are
15 eligible for Medicaid reimbursement.

16 Sec. 106.002. COMPOSITION OF COUNCIL. (a) The advisory
17 council is composed of 13 members as follows:

18 (1) one employee of the agency with administrative
19 duties involving the program;

20 (2) two employees of the commission with
21 administrative duties involving the program;

22 (3) one superintendent or chief financial officer of a
23 school district with a student enrollment of at least 5,000
24 students;

25 (4) one superintendent or chief financial officer of a
26 school district eligible for the allotment under Section 48.101(c),
27 Education Code;

1 (5) one superintendent or chief financial officer of a
2 school district eligible for the allotment under Section 48.101(b)
3 or (d), Education Code;

4 (6) one special education director employed by a
5 school district described by Subdivision (3);

6 (7) one special education director employed by a
7 school district described by Subdivision (4);

8 (8) one special education director employed by a
9 school district described by Subdivision (5);

10 (9) two persons who are each a parent of a student
11 eligible for reimbursement under the program;

12 (10) one member of an advocacy group for children with
13 special needs; and

14 (11) one provider of special education services.

15 (b) The commissioner of education shall appoint the member
16 described by Subsection (a)(1). The executive commissioner or the
17 executive commissioner's designee shall:

18 (1) appoint the remaining twelve members to the
19 advisory council; and

20 (2) designate one member as chair of the advisory
21 council.

22 (c) An appointment to a vacancy on the advisory council
23 shall be made in the same manner as the original appointment. A
24 member is eligible for reappointment.

25 Sec. 106.003. TERMS. Members of the advisory council serve
26 staggered four-year terms, with the terms of six or seven members
27 expiring on August 31 of each odd-numbered year.

1 Sec. 106.004. REIMBURSEMENT. Members of the advisory
2 council serve without compensation but are entitled to
3 reimbursement for travel expenses.

4 Sec. 106.005. COUNCIL DUTIES; ADVISORY STATUS. (a) The
5 advisory council shall advise the agency and the commission
6 regarding:

7 (1) implementing and administering the program;

8 (2) incorporating changes to federal law governing the
9 program;

10 (3) publishing the procedures manual, including the
11 adoption of potential amendments to the manual; and

12 (4) any other issue involving the administration of
13 the program or the publication of the manual.

14 (b) Chapter 2110, Government Code, does not apply to the
15 advisory council.

16 Sec. 106.006. ADMINISTRATIVE SUPPORT AND FUNDING. (a) The
17 commission shall provide administrative support for the advisory
18 council.

19 (b) Funding for the administrative and operational expenses
20 of the advisory council shall be provided by legislative
21 appropriation made to the commission for that purpose.

22 Sec. 106.007. RULES. The executive commissioner may adopt
23 rules as necessary to implement this chapter.

24 SECTION 4. Notwithstanding Section 531.021183, Government
25 Code, as added by this Act, the Health and Human Services Commission
26 must publish the update to the Texas Medicaid Provider Procedures
27 Manual as soon as practicable and not later than October 1, 2023.

1 The Health and Human Services Commission must publish the update to
2 the manual by a date not later than July 1 in 2024 and each
3 subsequent year.

4 SECTION 5. As soon as practicable and not later than October
5 1, 2023, the commissioner of education and the executive
6 commissioner of the Health and Human Services Commission shall
7 appoint the members of the School Health and Related Services
8 Program Advisory Council established under Chapter 106, Health and
9 Safety Code, as added by this Act, and shall provide for staggered
10 member terms as required by that chapter.

11 SECTION 6. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2023.