

By: Oliverson

H.B. No. 5078

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the eligibility for and access to certain Medicaid
3 waiver programs, including the medically dependent children (MDCP)
4 and the Texas home living (TxHmL) waiver programs.

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

6 SECTION 1. Subchapter B, Chapter 531, Government Code, is
7 amended by adding Sections 531.06012 and 531.06041 and amending
8 Section 531.0604 to read as follows:

9 Sec. 531.06012. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER
10 PROGRAM DIVERSION SLOTS. To the extent possible, the commission
11 shall increase the number of medically dependent children (MDCP)
12 waiver program diversion slots for children who are medically
13 fragile and at high risk of being placed in an institutional
14 setting.

15 Sec. 531.0604. MEDICALLY DEPENDENT CHILDREN PROGRAM
16 ELIGIBILITY REQUIREMENTS; NURSING FACILITY LEVEL OF CARE. To the
17 extent allowed by federal law, the commission may not require that a
18 child reside in a nursing facility for:

19 (1) an extended period of time to meet the nursing
20 facility level of care required for the child to be determined
21 eligible for the medically dependent children (MDCP) waiver
22 program; or

23 (2) any period of time to meet the nursing facility
24 level of care required for the child to be determined eligible for

1 the medically dependent children (MDCP) waiver program if the child
2 is:

3 (A) medically fragile; and

4 (B) accessing the program through a "Money
5 Follows the Person" demonstration project.

6 Sec. 531.06041. TRANSITION OF CERTAIN CHILDREN TO MEDICALLY
7 DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. The commission shall
8 transition a child from another Section 1915(c) waiver program to
9 the medically dependent children (MDCP) waiver program if the
10 child:

11 (1) receives Supplemental Security Income (SSI) (42
12 U.S.C. Section 1381 et seq.); and

13 (2) meets the program's level of care criteria for
14 medical necessity for nursing facility care.

15 SECTION 2. Subchapter B, Chapter 32, Human Resources Code,
16 is amended by adding Section 32.0521 to read as follows:

17 Sec. 32.0521. ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL)
18 WAIVER PROGRAM. (a) In this section, "Section 1915(c) waiver
19 program" has the meaning assigned by Section 531.001, Government
20 Code.

21 (b) To the extent permitted by federal law, an individual is
22 financially eligible to participate in the Texas home living
23 (TxHmL) waiver program if the individual's family income is not
24 more than the special income limit established by the commission
25 for other Section 1915(c) waiver programs, including the home and
26 community-based services (HCS) waiver program.

27 (c) The commission may not require that an individual who

1 has an approved primary diagnosis of a related condition meet
2 intelligence quotient criteria to be eligible for the Texas home
3 living (TxHmL) waiver program.

4 SECTION 3. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

10 SECTION 4. This Act takes effect September 1, 2023.