

1-1 By: Parker S.B. No. 2143
 1-2 (In the Senate - Filed March 9, 2023; March 21, 2023, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 May 19, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; May 19, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2143 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the eligibility for and access to certain Medicaid
 1-22 waiver programs, including the medically dependent children (MDCP)
 1-23 and the Texas home living (TxHmL) waiver programs.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter B, Chapter 531, Government Code, is
 1-26 amended by adding Sections 531.06012 and 531.06041 and amending
 1-27 Section 531.0604 to read as follows:

1-28 Sec. 531.06012. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER
 1-29 PROGRAM: ALLOCATION OF DIVERSION SLOTS. To the extent possible,
 1-30 the commission shall allocate a portion of medically dependent
 1-31 children (MDCP) waiver program slots as diversion slots for
 1-32 children who:

1-33 (1) meet the program's level of care criteria for
 1-34 medical necessity for nursing facility care; and

1-35 (2) are at high risk of being placed in an
 1-36 institutional setting.

1-37 Sec. 531.0604. MEDICALLY DEPENDENT CHILDREN PROGRAM
 1-38 ELIGIBILITY REQUIREMENTS; NURSING FACILITY LEVEL OF CARE. To the
 1-39 extent allowed by federal law, the commission may not require that a
 1-40 child reside in a nursing facility for:

1-41 (1) an extended period of time to meet the nursing
 1-42 facility level of care required for the child to be determined
 1-43 eligible for the medically dependent children (MDCP) waiver
 1-44 program; or

1-45 (2) any period of time to meet the nursing facility
 1-46 level of care required for the child to be determined eligible for
 1-47 the medically dependent children (MDCP) waiver program if the child
 1-48 is:

1-49 (A) medically fragile; and

1-50 (B) accessing the program through a "Money
 1-51 Follows the Person" demonstration project.

1-52 Sec. 531.06041. ASSESSMENT OF CERTAIN CHILDREN FOR
 1-53 MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. To the extent
 1-54 possible, the commission shall enroll a child in the medically
 1-55 dependent children (MDCP) waiver program if the child:

1-56 (1) is on the interest list for the program;

1-57 (2) receives Supplemental Security Income (SSI) (42
 1-58 U.S.C. Section 1381 et seq.); and

1-59 (3) meets the program's level of care criteria for
 1-60 medical necessity for nursing facility care.

2-1 SECTION 2. Subchapter B, Chapter 32, Human Resources Code,
2-2 is amended by adding Section 32.0521 to read as follows:

2-3 Sec. 32.0521. ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL)
2-4 WAIVER PROGRAM. (a) In this section, "Section 1915(c) waiver
2-5 program" has the meaning assigned by Section 531.001, Government
2-6 Code.

2-7 (b) To the extent permitted by federal law, an individual is
2-8 financially eligible to participate in the Texas home living
2-9 (TxHmL) waiver program if the individual's income is not more than
2-10 the special income limit established by the commission for other
2-11 Section 1915(c) waiver programs, including the home and
2-12 community-based services (HCS) waiver program.

2-13 (c) The commission may not require that an individual who
2-14 has an approved primary diagnosis of a related condition meet
2-15 intelligence quotient criteria to be eligible for the Texas home
2-16 living (TxHmL) waiver program.

2-17 SECTION 3. Notwithstanding any other section of this Act,
2-18 in a state fiscal year, the Health and Human Services Commission is
2-19 not required to implement a provision in another section of this Act
2-20 imposing a duty on the commission to take an action, including a
2-21 provision that the commission determines would require adding
2-22 additional slots under the medically dependent children (MDCP)
2-23 waiver program or the Texas home living (TxHmL) waiver program,
2-24 unless money is specifically appropriated to the commission for
2-25 that fiscal year to carry out that duty. The commission may
2-26 implement the provision in that fiscal year to the extent other
2-27 funding is available to the commission for the implementation.

2-28 SECTION 4. If before implementing any provision of this Act
2-29 a state agency determines that a waiver or authorization from a
2-30 federal agency is necessary for implementation of that provision,
2-31 the agency affected by the provision shall request the waiver or
2-32 authorization and may delay implementing that provision until the
2-33 waiver or authorization is granted.

2-34 SECTION 5. This Act takes effect September 1, 2023.

2-35 * * * * *