BILL ANALYSIS

H.B. 3235
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Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the Americans with Disabilities Act (ADA) mandates that places of public accommodation, including doctors' offices, must provide reasonable accommodation, including sign language interpreters, where needed to ensure effective communication. For deaf or hard of hearing persons who are unable to communicate effectively with their doctors by using lip-reading or by writing, this may place the cost of providing qualified sign language interpreters on the doctor. Federal guidelines provide that the accommodation necessary to ensure effective communication depends on a host of factors, including the complexity and importance of the subject matter being discussed. Due to the sensitive and complex nature of much of the information exchanged in a doctor's office, it is generally agreed that interpreters should be provided if the patient is not able to communicate effectively otherwise. The law does provide, however, that if providing sign language interpreters would constitute an "undue burden," then doctors are not obligated to provide this particular accommodation.

The ADA also mandates that government programs, such as the Texas Medicaid program, are to be accessible to the deaf and hard of hearing. It is noted as well that the Rehabilitation Act of 1973 also places similar obligations (of reasonable accommodation through the provision of sign language interpreters to ensure effective communication) on recipients of federal funding, including those doctors accepting Medicaid reimbursement and State Medicaid agencies accepting federal funding. Under our current State Medicaid plan, interpreter services are not a "covered service" or an "administrative cost" expressly covered under Texas Medicaid by state general revenue and matching federal dollars.

Medicaid participants who are deaf or hard of hearing are frequently denied interpreter services by their doctors because the rates of reimbursement make it extremely difficult for the doctors to pay for such services. As a result, many deaf and hard of hearing persons are unable to effectively communicate regarding their condition or treatment.

H.B. 3235 would require that interpreter services be provided upon request during the receipt of medical assistance under Chapter 32, Human Resources Code. This could be done as a "covered service." HHSC could opt to amend its state plan and get federal approval through CMS (federal agency) to draw down federal matching dollars. Alternatively, and without a state plan, HHSC could begin paying for interpreter services as "administrative costs" and begin receiving federal matching dollars in this way. This legislation would therefore establish a system for deaf and hard of hearing patients to obtain improved access to Medicaid services. Doctors would continue to have their obligations under the ADA not to discriminate, and to reasonably accommodate deaf and hard of hearing individuals, but the cost would be borne by the state Medicaid agency (and the federal government) in recognition of the burden these costs would otherwise place on doctors receiving low reimbursement rates through Medicaid, and in recognition of the potentially dire health consequences for deaf and hard of hearing persons when they are unable to communicate concerning their medical condition.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill would require interpreter services as requested for a person receiving medical assistance under Chapter 32, Human Resources Code, who is deaf or hard of hearing, or for a parent or guardian of a person receiving assistance if the parent or guardian is deaf or hard of hearing.

This bill also provides that if before implementing any provision of the Act a state agency determines that a waiver or authorization from a federal agency is necessary, such shall be requested and implementation of the provision may be delayed accordingly.

EFFECTIVE DATE

September 1, 2005.