

## **BILL ANALYSIS**

S.B. 1766  
By: Watson  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Consumer direction for certain people with disabilities and elderly persons in the Medicaid program has evolved since the inception of the program after passage of Senate Bill 1586 in 1999. The original language of SB 1586 referenced the voucher payment program. However, over the years the term used for this program has changed to consumer direction, and modifications have been made to the program to include two different options of consumer direction.

SB 1766 makes statutory changes to conform language relating to consumer direction models of service delivery to language currently being used and in accordance with recommendations of the consumer directed services workgroup. The legislation will ensure continuation of the role of the workgroup, and help to ensure greater access to consumer direction services models of service delivery.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Health and Human Services Commission is modified in SECTION 2 of this bill.

### **ANALYSIS**

SB 1766 defines "consumer" as a person who receives services through a consumer direction model established by the Health and Human Service Commission (HHSC) (Commission). It defines "consumer direction" or "consumer direction model" to mean a service delivery model under which a consumer or the consumer's legally authorized representative exercises control over the development and implementation of the consumer's individual service plan or over the persons delivering the services directly to the consumer. The term includes the consumer-directed service option, the service responsibility option, and other types of service delivery models developed by the commission.

The bill defines "consumer-directed service option" as a type of consumer direction model in which a consumer or the consumer's legally authorized representative acts as employer and has control over the recruitment, hiring, management, or dismissal of persons providing direct services to the consumer; or the retention of contractors or vendors for other authorized program services. Under this option, the consumer-directed services agency serves as fiscal agent and performs employer-related administrative functions for the consumer, including payroll and filing of tax and related reports.

SB 1766 defines "designated representative" as an adult volunteer appointed by a consumer or their representative to perform all or part of the consumer's duties as employer as approved by the consumer or the representative. The bill defines "legally authorized representative" as a parent or legal guardian if the person is a minor, a legal guardian if the person has been adjudicated as incapacitated to manage the person's personal affairs, or any other person authorized or required by law to act on behalf of the person with regard to the person's care; and does not include a designated representative.

SB 1766 defines "service responsibility option" as an option under the consumer direction model of service delivery in which a consumer or the consumer's legally authorized representative participates in the selection of, trains, and manages persons providing direct services to the

consumer; and the provider agency, as the employer, performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including the hiring and dismissal of persons providing direct services to the consumer.

SB 1766 requires the HHSC to develop and oversee the implementation of consumer direction models. It requires the HHSC, with the assistance of the consumer direction workgroup, to determine appropriate and suitable services for delivery through consumer direction when adopting rules. Requires the Commission, when adopting rules for consumer direction models, to ensure that each consumer direction model complies with applicable federal and state laws, maintains procedures to ensure that a potential consumer or the consumer's legally authorized representative receives information about service delivery options. Consumer or consumer's legally authorized representative must sign a statement acknowledging receipt of the information. Requires the Commission to ensure consumers or their legally authorized representatives choose a provider agency when receiving authorized program services that are not delivered through a consumer direction model.

SB 1766 renames the workgroup to the "Consumer Direction Work Group," and requires the workgroup to advise the Commission concerning the delivery of services through consumer direction in all programs offering long-term services and supports to ensure long-term care consumers have access to a service delivery model that enhances consumer's ability to have freedom and exercise control and authority over the consumer's choices, and to assist the HHSC in developing and implementing consumer direction models and expanding the delivery of services through consumer direction.

SB 1766 adds conforming language as it applies to the list of workgroup members. The bill requires that the workgroup is composed of : representatives of the commission, appointed by the executive commissioner; representatives of the Department of Aging and Disability (DADS); representatives of the Department of State Health Services; representatives of the Department of Assistive and Rehabilitative Services; consumers or potential consumers receiving services through consumer direction under Section 531.051; advocates for elderly and disabled persons who are consumers of the array of services provided to elderly persons and persons with disabilities through consumer direction; providers of services to be provided through consumer direction; representatives of the Texas Workforce Commission; representatives of any other state agency as considered necessary by the executive commissioner, appointed by the governing body of their respective agency; representatives of any other state agency as recommended by the workgroup and approved by the executive commissioner; and any other public representative appointed by the executive commissioner.

SB 1766 provides that duties of the workgroup include developing recommendations to expand delivery of consumer direction services, increase the use of consumer direction models, optimize the provider base for consumer direction, expand access to support advisors, monitor national research for best practices, and provide assistance on outreach efforts.

The bill requires the executive commissioner of the HHSC to appoint a member of the workgroup to serve as presiding officer, and members of the work group are required to elect any other necessary officers and the workgroup shall meet at the call of the presiding officer.

The bill requires the workgroup to report activities of the group to the legislature not later than September 1 of each even-numbered year.

SB 1766 repeals Section 531.051(e), (f), (g), and (h), Government Code. The bill requires the executive commissioner of the Health and Human Services Commission to ensure the membership of the work group established under Section 531.052, Government Code, complies with the requirements of that section as amended by this Act not later than January 1, 2008.

#### **EFFECTIVE DATE**

This Act takes effect September 1, 2007.