

BILL ANALYSIS

C.S.S.B. 841
By: Averitt
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are approximately 1.4 million uninsured children in Texas and 516,000 uninsured children in Texas whose net family income is above 200 percent of the federal poverty level for whom affordable insurance is not available.

C.S.S.B. 841 amends current law relating to the children's health insurance program.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 5, 6, 11, and 13 of this bill.

ANALYSIS

C.S.S.B. 841 amends the Health and Safety Code to increase the maximum income level used to determine a child's eligibility for the children's health insurance program from a net family income at 200 percent of the federal poverty level to a net family income at 300 percent of the federal poverty level. The bill increases the net family income threshold above which the Health and Human Services Commission (HHSC) is authorized to establish additional eligibility standards regarding the amount and types of allowable assets for a family with a child otherwise eligible for the program from 150 percent of the federal poverty level to 250 percent of the federal poverty level. The bill increases from \$10,000 to \$20,000 the minimum amount in allowable assets the eligibility standards for the children's health insurance program are required to allow a family to own. The bill removes the limitation on consideration of the value of a family's highest valued vehicle to the first \$18,000 of value, for purposes of calculating the amount of allowable assets if no vehicle qualifies for an exemption based on its use under HHSC rule.

C.S.S.B. 841 specifies that HHSC's requirement that children's health insurance program enrollees share the cost of the program applies to enrollees whose net family incomes are at or below 200 percent of the federal poverty level. The bill requires HHSC to require enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of the federal poverty level to pay a share of the cost of the children's health insurance program through copayments, fees, and a portion of the plan premium. The bill requires the total amount of the share required to be paid to include a portion of the plan premium set at an amount determined by HHSC that is approximately equal to 2.5 percent of an enrollee's net family income, to exceed the amount required to be paid by an enrollee whose net family income is at or below 200 percent of the federal poverty level except that the total amount to be paid may not exceed five percent of an enrollee's net family income, and to increase incrementally, as determined by HHSC, as an enrollee's net family income increases. The bill requires HHSC, in establishing the cost to be paid by an enrollee, to ensure that the cost progressively increases as the number of covered children in the enrollee's family increases. The bill requires HHSC to develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.

C.S.S.B. 841 specifies that the 90-day waiting period for coverage under the children's health insurance program applies to a child whose net family income is at or below 200 percent of the federal poverty level. The bill requires, for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level, a 180-day waiting period that extends from the last date on which the applicant was covered under a health benefits plan and applies only to a child who was covered by a health benefits plan at any time during the 180 days before the date of application for coverage under the children's health insurance program.

C.S.S.B. 841 requires the executive commissioner of HHSC by rule to establish a process that allows for the termination of coverage under the children's health insurance program of an enrollee whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level if the enrollee does not pay the premiums required under the cost-sharing provisions. The bill requires the rules to address the number of payments that may be missed before coverage terminates and the process for notifying an enrollee of pending coverage termination and to provide for an appropriate lock-out period after termination for nonpayment.

C.S.S.B. 841 requires the executive commissioner to develop and implement a buy-in option under the children's health insurance program under which children whose net family incomes exceed 300 percent, but do not exceed 400 percent, of the federal poverty level are eligible to purchase health benefits coverage available under the program. The bill requires the executive commissioner to adopt rules in accordance with federal law that apply to a child for whom health benefits coverage is purchased through the buy-in option. The bill requires the rules to establish eligibility requirements; ensure that premiums are set at a level to cover the costs of coverage for participating children and progressively increase as the number of covered children in the enrollee's family increases; ensure that required premiums and costs of coverage for a child are at least equal to the cost to HHSC of otherwise providing children's health insurance program coverage, including dental benefits, to another child who is the same age and who resides in the same state service delivery area as the child receiving coverage under the buy-in option, and include fees to offset all or part of the cost of prescription drugs and administrative costs and other cost-sharing payments; and include direct debit or credit card payment options. The bill requires the rules to provide that a child is eligible for the buy-in option if the child was eligible for and enrolled in the Medicaid program or the children's health insurance program, but the child's enrollment was not renewed because the child's net family income exceeded the limit at the time of eligibility redetermination. The bill authorizes the executive commissioner to establish rules, benefit coverage, and procedures for children for whom health benefits coverage is purchased under the buy-in option that differ from the rules, coverages, and procedures generally applicable to the children's health insurance program.

C.S.S.B. 841 requires the buy-in option, to the extent allowed by federal law, to include provisions designed to discourage employers and other persons from electing to discontinue offering health benefits plan coverage for employees' children under employee or other group health benefits plans and to discourage individuals with access to adequate health benefits plan coverage for their children from electing not to obtain, or to discontinue, that coverage. The bill requires HHSC to establish point-of-service copayments for the buy-in option that are higher than point-of-service copayments required for a child whose net family income is at or below 300 percent of the federal poverty level. The bill requires HHSC to include a lock-out period for the buy-in option to provide a disincentive for a parent to drop a child's coverage when a child is healthy and re-enroll only when health care needs occur. The bill requires the executive commissioner to adopt rules as necessary to implement the buy-in option not later than January 1, 2010.

C.S.S.B. 841 adds reductions for offsets for child support payments within the meaning of "net family income" for purposes of establishing eligibility for the children's health insurance program.

C.S.S.B. 841 prohibits HHSC, for purposes of determining whether a child meets family income and resource requirements for eligibility for the children's health insurance program, from considering as income or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under the prepaid higher education tuition program, any fund or plan established under the higher education savings plan, or any qualified tuition program of any state that meets the requirements of the federal Internal Revenue Code of 1986 relating to tax exempt tuition programs, or any taxable credit-only savings account that is opened in a child's name and gifted to the child by a post-secondary education awards program and that is exclusively accessible by the program administrator.

C.S.S.B. 841 requires HHSC to improve the effectiveness of community outreach efforts with respect to the children's health insurance program by increasing the capacity of existing outreach efforts implemented through community-based organizations by providing those organizations with adequate resources to educate the public about the program and assist applicants with the eligibility and recertification processes; establish a partnership with stakeholders who will provide certain outreach and application assistance; and focus the outreach efforts particularly on enrolling eligible persons in the children's health insurance program. The bill requires the partnership with stakeholders to include entities that contract with HHSC to perform children's health insurance program eligibility determination and enrollment functions, community-based organizations that contract with HHSC, health benefit plan providers, Texas Health Steps program contractors, health care providers, consumer advocates, and other interested stakeholders. The bill authorizes HHSC to improve the effectiveness of community outreach efforts with respect to the children's health insurance program by contracting with one or more persons to provide outreach and application assistance for the program. The bill requires HHSC to require each potential contractor to indicate the person's interest in writing before submitting a proposal for a contract and requires HHSC to encourage multiple persons from a geographical area determined by HHSC who submit a letter of interest to collaborate on a proposal for the contract. The bill requires HHSC to give preference in awarding contracts to proposals submitted by collaborations that include multiple entities with experience in serving a variety of populations.

C.S.S.B. 841 requires HHSC to apply the prospective payment system established under the federal Social Security Act in providing children's health insurance program coverage for rural health clinic services provided through rural health clinics and federally-qualified health center services provided through federally-qualified health centers in accordance with provisions of the Social Security Act.

C.S.S.B. 841 requires the executive commissioner by rule to adopt a corrective action plan for the children's health insurance program if, for three consecutive months less than 90 percent of the applications or eligibility recertifications for the program are accurately processed through SAVERR or TIERS, or otherwise, within the applicable processing time requirements established by state and federal law. The bill establishes elements required to be included in the corrective action plan. The bill requires the executive commissioner by rule to adopt processes designed to reduce denials of eligibility for the children's health insurance program due to information missing from an application. The bill requires the processes to include providing comprehensive information to an applicant, enrollee, or recipient regarding acceptable documentation of income for purposes of an eligibility determination. The bill requires HHSC, before imposing a denial of eligibility for the program for failure to provide information needed to complete an application, to attempt to contact the applicant, enrollee, or recipient by telephone or mail to describe the specific information that must be provided to complete an application and allow the person a period of at least 10 business days to provide the missing information instead of requiring the person to submit a new application.

C.S.S.B. 841 requires the executive commissioner to establish telephone call resolution standards and processes for each eligibility call center, including a call center operated by a contractor, to ensure that telephone calls regarding questions, issues, or complaints received at

call centers are accurately handled by call center staff and are successfully resolved by call center or agency staff.

C.S.S.B. 841 makes its provisions applicable to an initial determination of eligibility or a recertification of eligibility for the children's health insurance program made on or after September 1, 2009.

C.S.S.B. 841 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

C.S.S.B. 841 defines "executive commissioner," "commissioner," "net family income," "lock-out period," "federally-qualified health center," "federally-qualified health center services," "rural health clinic" and "rural health clinic services," "SAVERR," and "TIERS."

C.S.S.B. 841 repeals the following provisions from the Health and Safety Code:

- Sections 62.102(b) and (c), relating to a review of an individual's net family income for purposes of continuous eligibility; and
- Section 62.151(f), limiting the amount of brand-name prescription drugs certain individuals enrolled in the child health plan are authorized to receive.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 841 adds a provision not included in the original increasing the minimum amount of allowable assets the eligibility standards relating to continuous coverage must allow a family to own and removing the limitation on consideration of the value of a family's highest valued vehicle. The substitute differs from the original by repealing provisions relating to a review of an individual's net family income for purposes of continuous eligibility, whereas the original increases the income threshold above which the Health and Human Services Commission (HHSC) is required to review an enrolled individual's net family income for purposes of establishing continuous coverage under the program from 185 percent of the federal poverty level to 285 percent of the federal poverty level. The substitute differs from the original by repealing provisions limiting the amount of brand-name prescription drugs certain individuals enrolled in the child health plan are authorized to receive.

C.S.S.B. 841 omits a provision included in the original authorizing HHSC to provide dental benefits, subject to federal requirements, at full cost to an enrollee in the children's health insurance program as an available plan option for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level. The substitute differs from the original by requiring the total amount of cost sharing to include a portion of the plan premium set at an amount determined by HHSC that is approximately equal to 2.5 percent of an enrollee's net family income, whereas the original requires the amount to be not more than 2.5 percent of an enrollee's net family income.

C.S.S.B. 841 adds provisions not included in the original relating to a buy-in option for children whose net family incomes exceed 300 percent, but not 400 percent, of the federal poverty level. The substitute adds a provision not included in the original requiring the executive commissioner of HHSC to adopt rules as necessary to implement the buy-in option not later than January 1, 2010.

C.S.S.B. 841 adds a provision not included in the original prohibiting HHSC from considering a right to assets held in or a right to receive payment or benefits under certain college savings plans as income or resources for the purposes of determining whether a child meets family income and resource requirements for eligibility for the children's health insurance program. The substitute adds provisions not included in the original relating to the improvement of community outreach for the children's health insurance program. The substitute adds a provision not included in the original requiring HHSC to apply the prospective payment system established under provisions of the Social Security Act in providing children's health insurance program coverage for rural health clinic services provided through rural health clinics and federally-qualified health center services provided through federally-qualified health centers.

C.S.S.B. 841 adds provisions not included in the original relating to eligibility determination streamlining and improvement. The substitute adds provisions not included in the original defining "net family income," "federally-qualified health center," "federally-qualified health center services," "rural health clinic" and "rural health clinic services," "SAVERR," and "TIERS."

C.S.S.B. 841 adds a provision not included in the original making its provisions applicable to an initial determination of eligibility or a recertification of eligibility for the children's health insurance program made on or after September 1, 2009. The substitute omits a provision included in the original providing that its provisions do not make an appropriation and that it takes effect only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.