

AN ACT

relating to clarification of legislative intent regarding enrollment of newborns in Medicaid managed care plans and validating related acts and decisions.

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

SECTION 1. CLARIFICATION OF INTENT OF LEGISLATION. (a) In 1993, this state began the transition to managed care for certain recipients of Medicaid services with pilot programs in Travis County and the tri-county area of Jefferson, Chambers, and Galveston Counties. Since that time, Medicaid managed care has been implemented in six additional service areas consisting of territory in Bexar, Tarrant, Lubbock, Harris, Dallas, El Paso, and Nueces Counties. Total enrollment in Medicaid managed care is currently more than 2.5 million.

(b) In 1999, the legislature enacted H.B. No. 2896 (Chapter 1447, Acts of the 76th Legislature, Regular Session, 1999) and H.B. No. 2641 (Chapter 1460, Acts of the 76th Legislature, Regular Session, 1999). Both bills included identical amendments to Section 533.0075, Government Code, as originally enacted in 1997, and addressed enrollment of Medicaid recipients in managed care programs.

(c) The 1999 amendments added Subdivisions (4), (5), and (6) to Section 533.0075, Government Code. Subdivision (4) required the Health and Human Services Commission to develop and implement an

1 expedited process for determining eligibility for and enrolling
2 pregnant women and newborns in managed care plans. Subdivision (5)
3 required the commission to ensure immediate access to prenatal
4 services and newborn care for pregnant women and newborns enrolled
5 in managed care plans. Subdivision (6) required the commission to
6 temporarily assign newborns to the traditional fee-for-services
7 component of Medicaid for a period not to exceed 60 days or the date
8 on which the newborn's eligibility determination is completed.

9 (d) The legislature, in enacting Subdivisions (4), (5), and
10 (6) of Section 533.0075, Government Code, understood that the
11 Health and Human Services Commission had enrolled newborns in
12 Medicaid managed care plans and intended that the commission would
13 continue to enroll newborns in Medicaid managed care plans. In
14 particular, the legislature intended that, under the express terms
15 of Subdivision (4), the commission would expedite the enrollment of
16 newborns whose Medicaid eligibility is known at the time of birth
17 into managed care plans to ensure access to care and to avoid delays
18 in payment for services. The legislature has appropriated state
19 and federal funds to the commission for the payment of capitated
20 rates to managed care organizations that have contracted with the
21 commission to provide this coverage to newborns.

22 (e) Subdivision (6) of Section 533.0075, Government Code,
23 was intended to address delays in payment that health care
24 providers in Medicaid managed care pilot areas experienced at the
25 time of the subdivision's enactment for services provided to a
26 newborn who was ultimately enrolled in Medicaid but whose Medicaid
27 eligibility was not determined at the time of birth. The

1 legislature, in enacting Subdivision (6), did not intend to nullify
2 or supersede Subdivisions (4) and (5) or prohibit enrollment of
3 newborns in a Medicaid managed care plan. Rather, the legislature
4 intended to ensure that a newborn whose Medicaid eligibility was
5 not known or not determined at birth would receive medically
6 necessary care after the newborn's birth but before completion of
7 the Medicaid eligibility determination process, and that a provider
8 who provides care for the newborn receives reimbursement for the
9 provider's services.

10 (f) The legislature understands that the delays in payment
11 that prompted the enactment of Subdivision (6) have largely been
12 resolved by more efficient and timely enrollment processes and that
13 providers who supply services to newborns do not experience delays
14 or denials of payment solely because of a delay in Medicaid
15 eligibility determination. Accordingly, the legislature finds
16 that the purposes of Subdivision (6) have been fulfilled and the
17 requirements of that provision are no longer necessary to ensure
18 appropriate payment of providers of services to newborns.

19 SECTION 2. CLARIFYING AMENDMENT. Section 533.0075,
20 Government Code, is amended to read as follows:

21 Sec. 533.0075. RECIPIENT ENROLLMENT. The commission
22 shall:

23 (1) encourage recipients to choose appropriate
24 managed care plans and primary health care providers by:

25 (A) providing initial information to recipients
26 and providers in a region about the need for recipients to choose
27 plans and providers not later than the 90th day before the date on

1 which the commission plans to begin to provide health care services
2 to recipients in that region through managed care;

3 (B) providing follow-up information before
4 assignment of plans and providers and after assignment, if
5 necessary, to recipients who delay in choosing plans and providers;
6 and

7 (C) allowing plans and providers to provide
8 information to recipients or engage in marketing activities under
9 marketing guidelines established by the commission under Section
10 533.008 after the commission approves the information or
11 activities;

12 (2) consider the following factors in assigning
13 managed care plans and primary health care providers to recipients
14 who fail to choose plans and providers:

15 (A) the importance of maintaining existing
16 provider-patient and physician-patient relationships, including
17 relationships with specialists, public health clinics, and
18 community health centers;

19 (B) to the extent possible, the need to assign
20 family members to the same providers and plans; and

21 (C) geographic convenience of plans and
22 providers for recipients;

23 (3) retain responsibility for enrollment and
24 disenrollment of recipients in managed care plans, except that the
25 commission may delegate the responsibility to an independent
26 contractor who receives no form of payment from, and has no
27 financial ties to, any managed care organization;

1 (4) develop and implement an expedited process for
2 determining eligibility for and enrolling pregnant women and
3 newborn infants in managed care plans; and

4 (5) ensure immediate access to prenatal services and
5 newborn care for pregnant women and newborn infants enrolled in
6 managed care plans, including ensuring that a pregnant woman may
7 obtain an appointment with an obstetrical care provider for an
8 initial maternity evaluation not later than the 30th day after the
9 date the woman applies for Medicaid[~~;~~ and

10 [~~(6) temporarily assign Medicaid-eligible newborn~~
11 ~~infants to the traditional fee-for-service component of the state~~
12 ~~Medicaid program for a period not to exceed the earlier of:~~

13 [~~(A) 60 days; or~~

14 [~~(B) the date on which the Texas Department of~~
15 ~~Human Services has completed the newborn's Medicaid eligibility~~
16 ~~determination, including assignment of the newborn's Medicaid~~
17 ~~eligibility number].~~

18 SECTION 3. VALIDATION OF ACTS OR DECISIONS BY HEALTH AND
19 HUMAN SERVICES COMMISSION. (a) A governmental act taken or a
20 decision made by the Health and Human Services Commission before
21 the effective date of this Act to enroll a newborn infant in a
22 managed care organization under the terms of a contract for managed
23 care services authorized by Section 533.0075, Government Code, is
24 conclusively presumed, as of the date the act or decision occurred,
25 to be valid and to have occurred in accordance with all applicable
26 law.

27 (b) This section does not apply to:

1 (1) an act or decision that was void at the time the
2 act or decision occurred;

3 (2) an act or decision that violates the terms of
4 federal law or a federal waiver; or

5 (3) an act or decision that, under a statute of this
6 state or the United States, was a misdemeanor or felony at the time
7 the act or decision occurred.

8 SECTION 4. EFFECTIVE DATE. This Act takes effect
9 immediately if it receives a vote of two-thirds of all the members
10 elected to each house, as provided by Section 39, Article III, Texas
11 Constitution. If this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect September 1, 2009.

H.B. No. 3231

President of the Senate

Speaker of the House

I certify that H.B. No. 3231 was passed by the House on April 28, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3231 was passed by the Senate on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor