

By: Davis of Harris

H.B. No. 3231

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to clarification of Section 533.0075, Government Code, and  
3 validation of certain acts and decisions made by the Health and  
4 Human Services Commission in construing a contract entered into  
5 under that section.

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

7 SECTION 1. CLARIFICATION OF INTENT OF LEGISLATION. (a) In  
8 1993, Texas began the transition to managed care for certain  
9 recipients of Medicaid services, with pilot programs in Travis  
10 County and the tri-county area of Jefferson, Chambers, and  
11 Galveston counties. Since that time, Medicaid managed care has  
12 been implemented in six additional services areas: Bexar, Tarrant,  
13 Lubbock, Harris, Dallas, El Paso, and Nueces bringing total  
14 enrollment in Medicaid managed care to more than 2,500,000.

15 (b) In 1999, the Legislature enacted H.B. No. 2896 and H.B.  
16 No. 2641. Both bills included identical amendments to Section  
17 533.0075, Government Code, which was originally enacted in 1997 and  
18 addressed recipient enrollment in managed care programs.

19 (c) The 1999 amendments added Subdivisions (4), (5), and (6)  
20 to Section 533.0075, Government Code. Subdivision (4) required the  
21 Health and Human Services Commission to develop and implement an  
22 expedited process for determining eligibility for and enrolling  
23 pregnant women and newborn infants in managed care plans.  
24 Subdivision (5) required the commission to ensure immediate access

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

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

20 (e) Subdivision (6) of Section 533.0075 was intended to  
21 address delays in payment that health care providers in Medicaid  
22 managed care pilot areas experienced at the time of its enactment  
23 for services provided to a newborn infant who was ultimately  
24 enrolled in Medicaid but whose Medicaid eligibility was not  
25 determined at the time of birth. The Legislature, in enacting  
26 Subdivision (6), did not intend to nullify or supersede  
27 Subdivisions (4) and (5) and prohibit enrollment of newborn infants

1 in a Medicaid managed care plan. Rather, the Legislature intended  
2 to ensure that a newborn whose Medicaid eligibility was not known or  
3 not determined at birth would receive medically necessary care  
4 after its birth but before completion of the Medicaid eligibility  
5 determination process and that providers who perform such care  
6 receive reimbursement for such services.

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

16 SECTION 2. CLARIFYING AMENDMENT. Section 533.0075(6),  
17 Government Code, is repealed.

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

26 (b) This section does not apply to:

27 (1) an act or decision that was void at the time it

1 occurred;

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

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

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