1-1 By: Davis of Harris, Guillen H.B. No. 3231
1-2 (Senate Sponsor - Nelson)
1-3 (In the Senate - Received from the House April 29, 2009;
1-4 May 7, 2009, read first time and referred to Committee on Health
1-5 and Human Services; May 13, 2009, reported favorably by the
1-6 following vote: Yeas 9, Nays 0; May 13, 2009, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to clarification of legislative intent regarding
1-10 enrollment of newborns in Medicaid managed care plans and
1-11 validating related acts and decisions.
1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. CLARIFICATION OF INTENT OF LEGISLATION. (a) In
1-14 1993, this state began the transition to managed care for certain
1-15 recipients of Medicaid services with pilot programs in Travis
1-16 County and the tri-county area of Jefferson, Chambers, and
1-17 Galveston Counties. Since that time, Medicaid managed care has
1-18 been implemented in six additional service areas consisting of
1-19 territory in Bexar, Tarrant, Lubbock, Harris, Dallas, El Paso, and
1-20 Nueces Counties. Total enrollment in Medicaid managed care is
1-21 currently more than 2.5 million.
1-22 (b) In 1999, the legislature enacted H.B. No. 2896 (Chapter
1-23 1447, Acts of the 76th Legislature, Regular Session, 1999) and H.B.
1-24 No. 2641 (Chapter 1460, Acts of the 76th Legislature, Regular
1-25 Session, 1999). Both bills included identical amendments to
1-26 Section 533.0075, Government Code, as originally enacted in 1997,
1-27 and addressed enrollment of Medicaid recipients in managed care
1-28 programs.
1-29 (c) The 1999 amendments added Subdivisions (4), (5), and (6)
1-30 to Section 533.0075, Government Code. Subdivision (4) required the
1-31 Health and Human Services Commission to develop and implement an
1-32 expedited process for determining eligibility for and enrolling
1-33 pregnant women and newborns in managed care plans. Subdivision (5)
1-34 required the commission to ensure immediate access to prenatal
1-35 services and newborn care for pregnant women and newborns enrolled
1-36 in managed care plans. Subdivision (6) required the commission to
1-37 temporarily assign newborns to the traditional fee-for-services
1-38 component of Medicaid for a period not to exceed 60 days or the date
1-39 on which the newborn's eligibility determination is completed.
1-40 (d) The legislature, in enacting Subdivisions (4), (5), and
1-41 (6) of Section 533.0075, Government Code, understood that the
1-42 Health and Human Services Commission had enrolled newborns in
1-43 Medicaid managed care plans and intended that the commission would
1-44 continue to enroll newborns in Medicaid managed care plans. In
1-45 particular, the legislature intended that, under the express terms
1-46 of Subdivision (4), the commission would expedite the enrollment of
1-47 newborns whose Medicaid eligibility is known at the time of birth
1-48 into managed care plans to ensure access to care and to avoid delays
1-49 in payment for services. The legislature has appropriated state
1-50 and federal funds to the commission for the payment of capitated
1-51 rates to managed care organizations that have contracted with the
1-52 commission to provide this coverage to newborns.
1-53 (e) Subdivision (6) of Section 533.0075, Government Code,
1-54 was intended to address delays in payment that health care
1-55 providers in Medicaid managed care pilot areas experienced at the
1-56 time of the subdivision's enactment for services provided to a
1-57 newborn who was ultimately enrolled in Medicaid but whose Medicaid
1-58 eligibility was not determined at the time of birth. The
1-59 legislature, in enacting Subdivision (6), did not intend to nullify
1-60 or supersede Subdivisions (4) and (5) or prohibit enrollment of
1-61 newborns in a Medicaid managed care plan. Rather, the legislature
1-62 intended to ensure that a newborn whose Medicaid eligibility was
1-63 not known or not determined at birth would receive medically
1-64 necessary care after the newborn's birth but before completion of

2-1 the Medicaid eligibility determination process, and that a provider
2-2 who provides care for the newborn receives reimbursement for the
2-3 provider's services.
2-4 (f) The legislature understands that the delays in payment
2-5 that prompted the enactment of Subdivision (6) have largely been
2-6 resolved by more efficient and timely enrollment processes and that
2-7 providers who supply services to newborns do not experience delays
2-8 or denials of payment solely because of a delay in Medicaid
2-9 eligibility determination. Accordingly, the legislature finds
2-10 that the purposes of Subdivision (6) have been fulfilled and the
2-11 requirements of that provision are no longer necessary to ensure
2-12 appropriate payment of providers of services to newborns.
2-13 SECTION 2. CLARIFYING AMENDMENT. Section 533.0075,
2-14 Government Code, is amended to read as follows:
2-15 Sec. 533.0075. RECIPIENT ENROLLMENT. The commission
2-16 shall:
2-17 (1) encourage recipients to choose appropriate
2-18 managed care plans and primary health care providers by:
2-19 (A) providing initial information to recipients
2-20 and providers in a region about the need for recipients to choose
2-21 plans and providers not later than the 90th day before the date on
2-22 which the commission plans to begin to provide health care services
2-23 to recipients in that region through managed care;
2-24 (B) providing follow-up information before
2-25 assignment of plans and providers and after assignment, if
2-26 necessary, to recipients who delay in choosing plans and providers;
2-27 and
2-28 (C) allowing plans and providers to provide
2-29 information to recipients or engage in marketing activities under
2-30 marketing guidelines established by the commission under Section
2-31 533.008 after the commission approves the information or
2-32 activities;
2-33 (2) consider the following factors in assigning
2-34 managed care plans and primary health care providers to recipients
2-35 who fail to choose plans and providers:
2-36 (A) the importance of maintaining existing
2-37 provider-patient and physician-patient relationships, including
2-38 relationships with specialists, public health clinics, and
2-39 community health centers;
2-40 (B) to the extent possible, the need to assign
2-41 family members to the same providers and plans; and
2-42 (C) geographic convenience of plans and
2-43 providers for recipients;
2-44 (3) retain responsibility for enrollment and
2-45 disenrollment of recipients in managed care plans, except that the
2-46 commission may delegate the responsibility to an independent
2-47 contractor who receives no form of payment from, and has no
2-48 financial ties to, any managed care organization;
2-49 (4) develop and implement an expedited process for
2-50 determining eligibility for and enrolling pregnant women and
2-51 newborn infants in managed care plans; and
2-52 (5) ensure immediate access to prenatal services and
2-53 newborn care for pregnant women and newborn infants enrolled in
2-54 managed care plans, including ensuring that a pregnant woman may
2-55 obtain an appointment with an obstetrical care provider for an
2-56 initial maternity evaluation not later than the 30th day after the
2-57 date the woman applies for Medicaid[~~; and~~
2-58 [~~(6) temporarily assign Medicaid-eligible newborn~~
2-59 ~~infants to the traditional fee-for-service component of the state~~
2-60 ~~Medicaid program for a period not to exceed the earlier of:~~
2-61 [~~(A) 60 days; or~~
2-62 [~~(B) the date on which the Texas Department of~~
2-63 ~~Human Services has completed the newborn's Medicaid eligibility~~
2-64 ~~determination, including assignment of the newborn's Medicaid~~
2-65 ~~eligibility number~~].
2-66 SECTION 3. VALIDATION OF ACTS OR DECISIONS BY HEALTH AND
2-67 HUMAN SERVICES COMMISSION. (a) A governmental act taken or a
2-68 decision made by the Health and Human Services Commission before
2-69 the effective date of this Act to enroll a newborn infant in a

3-1 managed care organization under the terms of a contract for managed
3-2 care services authorized by Section 533.0075, Government Code, is
3-3 conclusively presumed, as of the date the act or decision occurred,
3-4 to be valid and to have occurred in accordance with all applicable
3-5 law.
3-6 (b) This section does not apply to:
3-7 (1) an act or decision that was void at the time the
3-8 act or decision occurred;
3-9 (2) an act or decision that violates the terms of
3-10 federal law or a federal waiver; or
3-11 (3) an act or decision that, under a statute of this
3-12 state or the United States, was a misdemeanor or felony at the time
3-13 the act or decision occurred.
3-14 SECTION 4. EFFECTIVE DATE. This Act takes effect
3-15 immediately if it receives a vote of two-thirds of all the members
3-16 elected to each house, as provided by Section 39, Article III, Texas
3-17 Constitution. If this Act does not receive the vote necessary for
3-18 immediate effect, this Act takes effect September 1, 2009.

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