

By: Rose

H.B. No. 4194

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the child health plan program and the medical
3 assistance program.

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

5 SECTION 1. Notwithstanding any other law, the executive
6 commissioner of the Health and Human Services Commission may adopt
7 rules to expand participation in and health benefits offered under
8 the child health plan program. Rules adopted under this Act may
9 include:

10 (1) new eligibility standards, including income
11 disregards and offsets;

12 (2) rules to expand the scope of services offered
13 under the program;

14 (3) rules to shorten or eliminate any waiting period;
15 and

16 (4) rules to expand marketing and outreach for the
17 program.

18 SECTION 2. Section 32.021(b), Human Resources Code, is
19 amended to read as follows:

20 (b) The department shall enter into agreements with any
21 federal agency designated by federal law to administer medical
22 assistance when the department determines the agreements to be
23 compatible with the state's participation in the medical assistance
24 program and within the limits of appropriated funds. The department

1 shall cooperate with federal agencies designated by federal law to
2 administer medical assistance in any reasonable manner necessary to
3 qualify for federal funds, including funds available under the
4 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

5 SECTION 3. Section 32.024, Human Resources Code, is amended
6 by amending Subsections (f), (l), (t), and (w) and adding
7 Subsections (z-2) and (ee) to read as follows:

8 (f) The department shall set the income eligibility cap for
9 persons qualifying for nursing home care at an amount that is not
10 less than \$1,102 [~~\$1,104~~] and that does not exceed the highest
11 income for which federal matching funds are payable. The department
12 shall set the cap at a higher amount than the minimum provided by
13 this subsection if appropriations made by the legislature for a
14 fiscal year will finance benefits at the higher cap for at least the
15 same number of recipients of the benefits during that year as were
16 served during the preceding fiscal year, as estimated by the
17 department. In setting an income eligibility cap under this
18 subsection, the department shall consider the cost of the
19 adjustment required by Subsection (g) of this section.

20 (l) The department shall set the income eligibility cap for
21 medical assistance for pregnant women and infants up to age one at
22 not less than 135 [~~130~~] percent of the federal poverty guidelines.

23 (t) The department by rule shall require a physician,
24 nursing facility, health care provider, or other responsible party
25 to obtain authorization from the department or a person authorized
26 to act on behalf of the department before an ambulance is used to
27 transport a recipient of medical assistance under this chapter in

1 circumstances not involving an emergency. The rules must provide
2 that:

3 (1) except as provided by Subdivision (3), a request
4 for authorization must be evaluated based on the recipient's
5 medical needs and may be granted for a length of time appropriate to
6 the recipient's medical condition;

7 (2) except as provided by Subdivision (3), a response
8 to a request for authorization must be made not later than 48 hours
9 after receipt of the request;

10 (3) a request for authorization must be immediately
11 granted and must be effective for a period of not more than 180 days
12 from the date of issuance if the request includes a written
13 statement from a physician that:

14 (A) states that alternative means of
15 transporting the recipient are contraindicated; and

16 (B) is dated not earlier than the 60th day before
17 the date on which the request for authorization is made;

18 (4) a person denied payment for ambulance services
19 rendered is entitled to payment from the nursing facility, health
20 care provider, or other responsible party that requested the
21 services if:

22 (A) payment under the medical assistance program
23 is denied because of lack of prior authorization; and

24 (B) the person provides the nursing facility,
25 health care provider, or other responsible party with a copy of the
26 bill for which payment was denied; and

27 (5) a person denied payment for services rendered

1 because of failure to obtain prior authorization or because a
2 request for prior authorization was denied is entitled to appeal
3 the denial of payment to the department.

4 (w) The department shall set a personal needs allowance of
5 not less than \$70 [~~\$60~~] a month for a resident of a convalescent or
6 nursing home or related institution licensed under Chapter 242,
7 Health and Safety Code, personal care facility, ICF-MR facility, or
8 other similar long-term care facility who receives medical
9 assistance. The department may send the personal needs allowance
10 directly to a resident who receives Supplemental Security Income
11 (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not
12 apply to a resident who is participating in a medical assistance
13 waiver program administered by the department.

14 (z-2) Notwithstanding any other law, the department, in its
15 rules and standards governing the vendor drug program, may not
16 limit to less than four the number of medications prescribed each
17 month to a recipient of prescription drug benefits under the
18 medical assistance program if one of those medications is
19 prescribed for 30 days or less and may not be refilled.

20 (ee) In its rules and standards governing the vendor drug
21 program, the department, to the maximum extent allowed by federal
22 law and subject to Subsection (z), shall provide medical assistance
23 to a recipient, including a recipient of medical assistance under
24 the Medicaid managed care program under Chapter 533, Government
25 Code, for the off-label use of a prescription medication if the
26 off-label use appears in one or more drug reference compendia and is
27 approved by the recipient's physician.

1 SECTION 4. Section 32.025, Human Resources Code, is amended
2 by adding Subsection (d-1) to read as follows:

3 (d-1) The procedures under Subsection (d) shall ensure that
4 children are screened simultaneously for eligibility under this
5 chapter and for eligibility under the child health plan program
6 under Chapter 62, Health and Safety Code, and the eligibility of a
7 child for the appropriate program is determined without further
8 eligibility application or qualification. This subsection applies
9 to an initial application and any subsequent recertification
10 review. The department shall ensure continuous coverage for an
11 eligible child who is transferred to a different program as a result
12 of the recertification review with no gap in coverage between the
13 two programs.

14 SECTION 5. If before implementing any provision of this Act
15 a state agency determines that a waiver or authorization from a
16 federal agency is necessary for implementation of that provision,
17 the agency affected by the provision shall request the waiver or
18 authorization and may delay implementing that provision until the
19 waiver or authorization is granted.

20 SECTION 6. This Act takes effect September 1, 2009.