

BILL ANALYSIS

C.S.H.B. 13
By: Kolkhorst
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned that the Texas Medicaid program is facing major challenges in maintaining quality health outcomes and budget sustainability. The parties report that a recent Health and Human Services Commission (HHSC) study addresses these concerns and suggests that the state could seek from the federal government critical reforms necessary to ensure the quality and sustainability of the Medicaid program in Texas.

C.S.H.B. 13 seeks to implement several of the recommendations of that report and other cost savings and innovative ideas for the improvement of the Medicaid program by requiring the executive commissioner of HHSC to seek a waiver to the state Medicaid plan.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 13 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to seek a waiver under the federal Social Security Act to the state Medicaid plan. The bill requires the waiver to be designed to achieve the following objectives regarding the Medicaid program and alternatives to the program:

- provide flexibility to determine Medicaid eligibility categories and income levels;
- provide flexibility to design Medicaid benefits that meet the demographic, public health, clinical, and cultural needs of Texas or regions within Texas;
- encourage use of the private health benefits coverage market rather than public benefits systems;
- encourage people who have access to private employer-based health benefits to obtain or maintain those benefits;
- create a culture of shared financial responsibility, accountability, and participation in the Medicaid program by establishing and enforcing copayment requirements similar to private sector principles for all eligibility groups, promoting the use of health savings accounts to influence a culture of individual responsibility, and promoting the use of vouchers for consumer-directed services in which consumers manage and pay for health-related services provided to them using program vouchers;
- consolidate federal funding streams, including funds from the disproportionate share hospitals and upper payment limit supplemental payment programs and other federal Medicaid funds, to ensure the most effective and efficient use of those funding streams;
- allow flexibility in the use of state funds used to obtain federal matching funds, including allowing the use of intergovernmental transfers, certified public expenditures, costs not otherwise matchable, or other funds and funding mechanisms to obtain federal matching

funds;

- empower individuals who are uninsured to acquire health benefits coverage through the promotion of cost-effective coverage models that provide access to affordable primary, preventive, and other health care on a sliding scale, with fees paid at the point of service;
- allow for the redesign of long-term care services and supports to increase access to patient-centered care in the most cost-effective manner; and
- create the Texas Health Insurance Virtual Marketplace, a virtual marketplace based on an Internet portal that allows people to shop, compare, and purchase private health benefits coverage.

The bill defines "commission" and "executive commissioner" for purposes of these provisions.

C.S.H.B. 13 establishes a temporary provision, set to expire September 1, 2013, to require HHSC to actively pursue a modification to the formula prescribed by federal law for determining the state's federal medical assistance percentage (FMAP) to achieve a formula that would produce an FMAP that accounts for and is periodically adjusted to reflect changes in the following factors in the state: the total population, the population growth rate, and the percentage of the population with household incomes below the federal poverty level. The bill requires HHSC to pursue the modification by providing to the Texas delegation to the United States Congress and the federal Centers for Medicare and Medicaid Services (CMS) and other appropriate federal agencies data regarding those factors and information indicating the effects of those factors on the Medicaid program that are unique to Texas. The bill requires HHSC to make efforts to obtain additional federal Medicaid funding for Medicaid services required to be provided to illegal immigrants in Texas. The bill requires HHSC, as part of that effort, to provide to the Texas delegation to the United States Congress and CMS and other appropriate federal agencies data regarding the costs to Texas of providing those services. The bill defines "commission," "FMAP," "illegal immigrant," and "Medicaid program" for purposes of the temporary provision.

C.S.H.B. 13 establishes a temporary provision, set to expire September 1, 2013, creating the Medicaid Reform Waiver Legislative Oversight Committee to facilitate the reform waiver efforts with respect to Medicaid. The bill establishes the composition of the committee and provides that a member of the committee serves at the pleasure of the appointing official. The bill requires the lieutenant governor to designate a member of the committee as the presiding officer. The bill prohibits a member of the committee from receiving compensation for serving on the committee but entitles a member to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

C.S.H.B. 13 requires the committee to facilitate the design and development of the Medicaid reform waiver required by the bill, facilitate a smooth transition from existing Medicaid payment systems and benefit designs to a new model of Medicaid enabled by the waiver, meet at the call of the presiding officer, and research, take public testimony, and issue reports requested by the lieutenant governor or speaker of the house of representatives. The bill authorizes the committee to request reports and other information from HHSC. The bill requires the committee to use existing staff of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties and applies open meetings requirements to the committee. The bill requires the committee to report to the lieutenant governor and speaker of the house of representatives not later than November 15, 2012, and sets out the information required to be included in the report. The bill abolishes the committee effective September 1, 2013.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 13 omits provisions included in the original defining "commission," "demonstration project," and "executive commissioner" and providing for the definition of "high deductible health plan" by reference to federal law for purposes of the global Medicaid demonstration project waiver. The substitute omits a provision included in the original related to the construction of provisions relating to the demonstration project.

C.S.H.B. 13 omits a provision included in the original authorizing the executive commissioner of the Health and Human Services Commission (HHSC) to seek a waiver under the federal Social Security Act to the state Medicaid plan to operate a global demonstration project that will allow HHSC to more efficiently and effectively use federal money paid to the state under the Medicaid program to assist low-income residents of the state with obtaining health benefits coverage by using that federal money and appropriated state money to the extent necessary and for purposes consistent with the original's provisions. The substitute omits a provision included in the original authorizing HHSC to develop and administer the demonstration project according to the original's provisions and specifies that any provision that would not achieve a goal stated or specified by the original need not be addressed in the project. The substitute omits a provision included in the original authorizing the executive commissioner to adopt rules for the proper and efficient operation of the demonstration project.

C.S.H.B. 13 omits provisions included in the original requiring the demonstration project to employ strategies designed to achieve specified goals and requiring HHSC, in developing the demonstration project, to seek to achieve the goal of maximizing flexibility under the project by negotiating with the Centers for Medicare and Medicaid Services to obtain a waiver from certain requirements for obtaining federal matching funds for support of the Medicaid program.

C.S.H.B. 13 omits provisions included in the original authorizing HHSC to develop a subsidy program to assist certain eligible persons with the payment of a monthly premium for a private health benefits plan, establishing program and eligibility requirements, and authorizing a person who meets certain income requirements to choose to receive a subsidy in lieu of participating in the Medicaid managed care program.

C.S.H.B. 13 omits a provision included the original authorizing HHSC to develop an electronic benefits card, to be known as the Lone Star Health card, to assist a person eligible to receive benefits through the demonstration project with paying for a high deductible health plan and establishing requirements for the card.

C.S.H.B. 13 omits a provision included in the original relating to the establishment of a consumer assistance program and the establishment of an insurance purchasing portal on the Texas Department of Insurance's Internet website to assist a person eligible for a subsidy under the demonstration project with finding and obtaining health benefits coverage through a private health benefits plan. The substitute omits a provision included in the original authorizing the executive commissioner to adopt rules relating to reinsurance to health benefit plan providers and wraparound and supplemental benefits to ensure adequate coverage for persons receiving benefits through the demonstration project.

C.S.H.B. 13 omits provisions included in the original relating to the establishment of the Office of Individual Empowerment and Employment Opportunities by HHSC to increase the employment rate of Medicaid recipients and to provide job training and education opportunities to specified Medicaid recipients and requiring HHSC to annually prepare and publish on HHSC's Internet website a report summarizing specified elements of the office and the program.

C.S.H.B. 13 omits a provision included in the original relating to the commission's authority to modify and develop the demonstration project. The substitute omits a provision included in the

original requiring HHSC to actively develop a proposal for a waiver or other authorization from the appropriate federal agency that is necessary to implement the demonstration project and to request and actively pursue approval from the appropriate federal agency of the waiver or other authorization as soon as possible after the original's effective date.

C.S.H.B. 13 contains a provision not included in the original defining "commission" and "executive commissioner" for purposes of the Medicaid reform waiver. The bill contains provisions not included in the original requiring the executive commissioner of the Health and Human Services Commission (HHSC) to seek a waiver under the federal Social Security Act to the state Medicaid plan and requiring the waiver to be designed to achieve certain specified objectives regarding the Medicaid program and alternatives to the program.

C.S.H.B. 13 omits provisions included in the original requiring a contract between a managed care organization and HHSC for the organization to provide health care services to Medicaid recipients to contain, in addition to other elements, average efficiency standards adopted by the executive commissioner by rule that encourage quality of care while containing costs and requiring the executive commissioner to adopt such standards not later than January 1, 2012. The substitute omits a provision included in the original requiring HHSC to include the required average efficiency standards in a contract between HHSC and a managed care organization that is entered into or renewed on or after January 1, 2012, and to seek to amend contracts entered into with managed care organizations before January 1, 2012, to include the required average efficiency standards.

C.S.H.B. 13 omits provisions included in the original relating to a demonstration project through Medicaid to expand access to preventive health and family planning services for women.

C.S.H.B. 13 omits provisions included in the original authorizing HHSC to create and establish an indigent care program for residents of the state who meet specified eligibility requirements; establishing the goals of the program, including providing financial assistance to an eligible person for health care service through a monthly payment plan based on income; and requiring HHSC to develop the program as soon as practicable after the original's effective date.

C.S.H.B. 13 contains a provision not included in the original defining "illegal immigrant" for purposes of provisions requiring HHSC to pursue a modification of the state's federal medical assistance percentage. The substitute differs from the original in a nonsubstantive way.

C.S.H.B. 13 contains a provision not included in the original creating the Medicaid Reform Waiver Legislative Oversight Committee to facilitate the reform waiver efforts with respect to Medicaid. The substitute contains provisions not included in the original establishing the composition of the committee and certain administrative provisions relating to committee member requirements, reimbursement and compensation, committee staff, the authority of the committee to request reports and other information, and open meeting requirements. The substitute contains a provision not included in the original establishing the duties of the committee and requiring the committee to report certain specified information to the lieutenant governor and speaker of the house of representatives. The substitute contains a provision not included in the original abolishing the committee and providing for the expiration of provisions relating to the committee.