

## **BILL ANALYSIS**

C.S.H.B. 3053  
By: Paxton  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that state and federal requirements for reimbursement for health care services under Medicaid can lead to hefty administrative costs for some health care providers. Observers assert that, considering the current financial conditions in Texas, as well as current Medicaid regulations, the state needs to evaluate the administrative requirements for health care providers under the program. Interested parties assert that legislation is needed to require the Health and Human Services Commission to streamline forms and records used in the administration of Medicaid. C.S.H.B. 3053 intends to address these issues by making statutory changes relating to efficiency in the delivery of health and human services.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 3053 amends the Government Code to require the Health and Human Services Commission (HHSC) to create any form necessary for the administration of the Medicaid program and prohibits HHSC from contracting with health care provider to create the forms. The bill requires HHSC to determine characteristics of cost-effective forms and procedures and to use those characteristics to develop the forms. The bill prohibits any form developed under the bill's provisions from exceeding 10 pages. The bill requires HHSC to create a database for records storage to facilitate audit procedures and reduce costs associated with records management. The bill requires HHSC to create a portal on the commission's Internet website designed to facilitate commerce, recordkeeping, communication, and information and requires the portal to be designed for use by patients, physicians, nurses, and commission employees. The bill requires the database and the portal to be designed to protect an individual's personal records and maintain the confidentiality of an individual's information.

C.S.H.B. 3053 requires rules relating to health and human services to be consolidated and reconsidered to increase efficiency in the provision of health and human services and requires HHSC to suspend the effective date of any rule adopted by the commission that has not taken effect on the bill's effective date. The bill requires HHSC to report to the executive

commissioner of HHSC regarding any rule that cannot be reconsidered together with an explanation of the legal reasons the rule cannot be reconsidered. The bill authorizes HHSC to adopt final rules on January 1 and July 1 following consolidation and reconsideration. The bill requires HHSC to make every effort to consolidate the commission's rules regarding the Medically Dependent Children Program. The bill requires HHSC to consider the needs of patients, physicians, nurses, and home health agencies in consolidating the rules. The bill establishes, to the extent that its provisions conflict with the Administrative Procedure Act, that the bill's provisions prevail.

C.S.H.B. 3053 establishes that HHSC is not required to comply with any provision of the bill unless money is available for that purpose.

C.S.H.B. 3053 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3053 differs from the original by prohibiting the Health and Human Services Commission (HHSC) from contracting with a health care provider to create the forms necessary for the administration of the Medicaid program, whereas the original prohibits HHSC from contracting with a private entity to provide the forms.

C.S.H.B. 3053 differs from the original, in the bill provision requiring the commission's Internet portal designed to facilitate commerce, recordkeeping, communication, and information to be designed for use by patients, physicians, nurses, and HHSC employees, by omitting a specification included in the original requiring the portal to also be designed for use by private entities.

C.S.H.B. 3053 contains a provision not included in the original requiring the database for records storage required to be developed by HHSC to facilitate audit procedures and reduce costs associated with records management and the commission's Internet portal to be designed to protect an individual's personal records and maintain the confidentiality of an individual's information.

C.S.H.B. 3053 omits provisions included in the original relating to the establishment of a task force to improve health and human services efficiency, including a provision defining "task force," and omits provisions relating to the membership of the task force, member vacancies, meeting requirements, compensation and reimbursement of task force members, administrative support, duties of the task force, and a required annual report. The substitute omits a provision included in the original requiring the lieutenant governor and the speaker of the house of representatives to appoint the members of the task force as soon as practicable after the bill's effective date.

C.S.H.B. 3053 omits a provision included in the original requiring HHSC to apply for a waiver under the federal hospital level of care waiver program for medically fragile individuals to provide the state with the flexibility to provide Medicaid services outside the scope, amount, and duration of nonwaiver services available to certain medically fragile individuals; requiring the waiver program to include coverage for specified services and requiring HHSC to coordinate the provision of services subject to the bill's provisions relating to the waiver program with services provided under other federal waiver programs to ensure that services are cost neutral and not

duplicative of other services provided under Medicaid and requiring the waiver program to be designed to permit eligible individuals to apply for services through the waiver program without enrolling in the Medically Dependent Children Program.

C.S.H.B. 3053 differs from the original by requiring rules relating to health and human services to be consolidated and reconsidered to increase efficiency in the provision of health and human services, whereas the original requires such rules to be consolidated and reconsidered to ensure compliance with provisions of the bill and recommendations of the task force. The substitute omits a provision included in the original requiring the executive commissioner of HHSC to consult with the task force regarding reconsideration of any rule for the purpose of streamlining services administered by HHSC and improving efficiency. The substitute differs from the original by authorizing HHSC, following consolidation and reconsideration, to adopt final rules on January 1 and July 1, rather than January 1, April 1, July 1, and October 1 as in the original.

C.S.H.B. 3053 contains a provision not included in the original establishing that HHSC is not required to comply with any of the bill's provisions unless money is available for that purpose.