

BILL ANALYSIS

C.S.H.B. 1267
By: Guillen
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that, because the legislature has charged the Health and Human Services Commission (HHSC) with expanding the state's managed care while simultaneously protecting the federal funding streams, HHSC has collaborated with the Centers for Medicare and Medicaid Services to design a waiver program that fulfills these two mandates. C.S.H.B. 1267 intends to provide for such a waiver program.

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. 1267 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to develop and apply for a waiver under federal law to provide Texas with the flexibility to provide Medicaid services outside the scope, amount, or duration of nonwaiver services available to medically fragile individuals who are at least 21 years of age and who require a hospital level of care under Medicaid, if HHSC determines that implementation of a hospital level of care waiver program is cost-effective and efficient. The bill requires the hospital level of care waiver program to include coverage for advanced supportive and restorative services, case management services, environmental modifications, home-delivered meals, hospice care, occupational therapy, personal care, prescribed drugs, personal emergency response systems, physical therapy, private duty nursing, respiratory therapy, respite care, skilled nursing, specialized medical equipment and supplies, and speech therapy.

C.S.H.B. 1267 prohibits HHSC from requiring that a medically fragile or technology-dependent individual who meets the eligibility criteria for the hospital level of care waiver program be placed in an alternative institutional living arrangement as a condition for receiving services under the program. The bill requires HHSC to coordinate the provision of services under the program with services provided under other federal waiver programs in order to ensure that services under the program are cost neutral and not duplicative of other services provided under Medicaid.

C.S.H.B. 1267 requires HHSC to develop and apply for a waiver under federal law to establish a level of need for use in the home and community-based services waiver program to assess individuals who are at least 21 years of age and may require continuous, intensive, and specialized medical support to ensure that those individuals may receive that support, if HHSC determines that implementation of that level of need is cost-effective and efficient. The bill requires the individual cost limit for an individual assigned the level of need established by the bill's provisions to be equal to or greater than the individual cost limit for an individual assigned a level of need that includes the receipt of the most intensive behavioral health support under the home and community-based services waiver program.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1267 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. This Act shall be known as Daniel's Law.

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Sections 32.0521 and 32.0522 to read as follows:

SECTION 2. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Sections 32.0521 and 32.0522 to read as follows:

Sec. 32.0521. HOSPITAL LEVEL OF CARE WAIVER PROGRAM FOR MEDICALLY FRAGILE INDIVIDUALS.

Sec. 32.0521. HOSPITAL LEVEL OF CARE WAIVER PROGRAM FOR MEDICALLY FRAGILE INDIVIDUALS.

(a) The department shall develop and apply for a waiver under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), to provide the state with the flexibility to provide medical assistance services outside the scope, amount, or duration of nonwaiver services available to medically fragile individuals who are at least 21 years of age and who require a hospital level of care under the medical assistance program.

(a) The department shall develop and apply for a waiver under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), to provide the state with the flexibility to provide medical assistance services outside the scope, amount, or duration of nonwaiver services available to medically fragile individuals who are at least 21 years of age and who require a hospital level of care under the medical assistance program, if the department determines that implementation of a hospital level of care waiver program is cost-effective and efficient.

(b) The hospital level of care waiver program under this section must include coverage for:

(b) The hospital level of care waiver program under this section must include coverage for:

- (1) advanced supportive and restorative services;
- (2) case management services;
- (3) environmental modifications;
- (4) home-delivered meals;
- (5) hospice care;
- (6) occupational therapy;
- (7) personal care;
- (8) prescribed drugs;
- (9) personal emergency response systems;
- (10) physical therapy;
- (11) private duty nursing;
- (12) respiratory therapy;
- (13) respite care;
- (14) skilled nursing;
- (15) specialized medical equipment and

- (1) advanced supportive and restorative services;
- (2) case management services;
- (3) environmental modifications;
- (4) home-delivered meals;
- (5) hospice care;
- (6) occupational therapy;
- (7) personal care;
- (8) prescribed drugs;
- (9) personal emergency response systems;
- (10) physical therapy;
- (11) private duty nursing;
- (12) respiratory therapy;
- (13) respite care;
- (14) skilled nursing;
- (15) specialized medical equipment and

supplies; and
(16) speech therapy.

(c) The department may not require that a medically fragile or technology-dependent individual who meets the eligibility criteria for the hospital level of care waiver program be placed in an alternative institutional living arrangement as a condition for receiving services under the program.

(d) To ensure that services subject to this section are cost neutral and not duplicative of other services provided under the medical assistance program, the department shall coordinate the provision of services subject to this section with services provided under other federal waiver programs.

Sec. 32.0522. LEVELS OF NEED IN HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM. (a) The department shall develop and apply for a waiver under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), to establish a level of need for use in the Home and Community-based Services waiver program to assess individuals who are at least 21 years of age and may require continuous, intensive, and specialized medical support to ensure that those individuals may receive that support.

(b) The individual cost limit for an individual assigned the level of need established under this section must be equal to or greater than the individual cost limit for an individual assigned a level of need that includes the receipt of the most intensive behavioral health support under the Home and Community-based Services waiver program.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver, an amendment to an existing waiver, or another authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver, amendment to the existing waiver, or other authorization and may delay implementing that provision until the waiver, amendment, or authorization is

supplies; and
(16) speech therapy.

(c) The department may not require that a medically fragile or technology-dependent individual who meets the eligibility criteria for the hospital level of care waiver program be placed in an alternative institutional living arrangement as a condition for receiving services under the program.

(d) To ensure that services subject to this section are cost neutral and not duplicative of other services provided under the medical assistance program, the department shall coordinate the provision of services subject to this section with services provided under other federal waiver programs.

Sec. 32.0522. LEVELS OF NEED IN HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM. (a) The department shall develop and apply for a waiver under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), to establish a level of need for use in the Home and Community-based Services waiver program to assess individuals who are at least 21 years of age and may require continuous, intensive, and specialized medical support to ensure that those individuals may receive that support, if the department determines that implementation of that level of need is cost-effective and efficient.

(b) The individual cost limit for an individual assigned the level of need established under this section must be equal to or greater than the individual cost limit for an individual assigned a level of need that includes the receipt of the most intensive behavioral health support under the Home and Community-based Services waiver program.

SECTION 3. Same as introduced version.

granted.

SECTION 3. This Act takes effect
September 1, 2013.

SECTION 4. Same as introduced version.