

## **BILL ANALYSIS**

Senate Research Center

S.B. 1361  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

As Texas redesigns the Medicaid system to provide cost-effective, quality supports and services for eligible Texans, it is important that individuals with disabilities choosing to remain in the community or to return to the community from institutional settings are guaranteed adequate quality of life. Each group's background and health care needs causes additional challenges in setting up a unified system of long-term supports and services (LTSS). Well-designed and implemented Medicaid service delivery policies will save money by improving health outcomes and eliminating inefficiencies as well as be effective in serving their purpose.

Appropriate quality and rights are essential as Texas moves rapidly toward expanding Medicaid LTSS through managed care systems. The speed with which the transition of such services to managed care is taking place creates an urgency to establish a foundation of principles and rights to compliment appropriate LTSS outcome measures so people with disabilities of all ages can live safely and with dignity in the community in settings of their choice.

These rights may be used as a framework to evaluate satisfaction and outcomes related to quality, adequacy and impact of services. These rights are similar to programmatic principles and quality of life indicators in existing non-managed care LTSS Medicaid waiver programs and are valued by participants who do not want to see these rights and principles diminished as service delivery systems evolve.

S.B. 1361 establishes a Medicaid LTSS Recipients Bill of Rights. In addition, the bill ensures that a recipient of Medicaid LTSS receives information of these rights and that LTSS policies align with these rights.

As proposed, S.B. 1361 amends current law relating to a bill of rights for persons receiving Medicaid long-term services and supports under state benefits programs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive of commissioner of the Health and Human Services Commission and the Department of Aging and Disability Services in SECTION 1 (Section 531.0831, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0831, as follows:

Sec. 531.0831. MEDICAID LONG-TERM SUPPORTS AND SERVICES RECIPIENTS' BILL OF RIGHTS. (a) Provides that, it is the policy of this state that, to the extent provided by state or federal law or policy, each recipient of Medicaid long-term services and supports under a state benefits program has the right:

(1) to live as independently as possible and to live a full, healthy, participatory life in the community;

(2) to control the recipient's own life and to be directly involved in choosing services and supports that are centered on the recipient's personal goals and aspirations, and directed and overseen by the recipient according to the individual's choice for self-direction;

(3) to receive supports necessary to secure and retain competitive employment;

(4) to receive effective support and information to be able to self-advocate or receive assistance from guardians and family members who have received the necessary information, counseling, training, and support to provide the support and advocacy for their wards, minor children and, as requested, by adult recipients age 18 and older;

(5) with other interested stakeholders, to participate and be engaged in designing, implementing, and monitoring the outcomes and effectiveness of services provided under and service delivery systems used in state benefits programs;

(6) to receive services and supports through a delivery system that:

(A) is capable of addressing the recipient's individualized needs;

(B) reflects efforts to close gaps and discontinuities in the provision of long-term services and supports by the active promotion of innovation in the system;

(C) has in place a comprehensive quality management process for purposes of ensuring the health and safety of recipients and the effectiveness of services in achieving recipient goals by addressing and monitoring system capabilities, recipient centeredness, personnel qualifications, and information technology;

(D) is overseen by highly qualified state and federal governmental personnel with the decision-making authority necessary to proactively administer the system in the public interest; and

(E) is accessible, easily understood, and transparent;

(7) to select a health care provider that has the capacity and expertise to be able to address the recipient's specific and individualized needs;

(8) where applicable, to have access to providers of institutional and home and community-based services and supports;

(9) to primary and specialty health services that are effectively coordinated with long-term services and supports;

(10) to have access to the durable medical equipment and assistive technology necessary to function independently and to live in the most integrated setting;

(11) to receive services and supports in settings that are compliant with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.);

(12) to retain existing physicians and other health providers or health care coordinators who are willing to adhere to plan rules and payment schedules;

(13) to be afforded periodic opportunities to change health care providers, health care coordinators, and, if applicable, managed care plans;

(14) to be fully informed of recipients' rights and obligations as well as the steps necessary to access needed services; and

(15) to have access to grievance and appeal procedures that take into account physical, intellectual, behavioral, and sensory barriers to safeguard individual rights under the service system provisions and applicable federal and state law.

(b) Requires the Health and Human Services Commission (HHSC), in cooperation with the Department of Aging and Disability Services (DADS), to ensure that a recipient of Medicaid long-term services and supports receives a written copy of the Medicaid long-term recipients' bill of rights in the recipient's primary language, if possible, and requires HHSC to ensure that the recipient is informed of the rights provided by the recipients' bill of rights:

(1) orally in the recipient's primary language, if possible, and in simple, nontechnical terms; or

(2) for a recipient who has a disability, including an impairment of vision or hearing, through any means that can reasonably be expected to result in successful communication with the recipient.

(c) Requires the executive commissioner of HHSC and DADS, except as provided by this subsection, to ensure that the rules and policies governing Medicaid long-term services and supports are consistent with the state policy outlined by Subsection (a). Authorizes the executive commissioner or DADS, as appropriate, to adopt rules or policies that provide greater protections for the rights of recipients of Medicaid long-term services and supports.

SECTION 2. Effective date: upon passage or September 1, 2013.