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H.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to eligibility for Medicaid and the child health plan program for certain children.

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

SECTION 1. Section 62.101, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) As authorized by 42 U.S.C. Section 1397gg, the executive commissioner shall adopt rules providing for the determination and certification of presumptive eligibility for the child health plan program of a child under 19 years of age who applies for and meets the basic eligibility requirements for the child health plan program.

(e) The rules adopted under Subsection (d) must:

(1) allow only a juvenile facility for the placement, detention, or commitment of a child under Title 3, Family Code, to serve as a qualified entity and make a presumptive eligibility determination for the child health plan program for a child; and

(2) identify the services and benefits, which must include mental health and substance abuse services, prescription drug benefits, and primary care services, that a child who is presumptively eligible for the child health plan program may receive under that program.

SECTION 2. Subchapter C, Chapter 62, Health and Safety Code, is amended by adding Sections 62.106 and 62.107 to read as

1 follows:

2 Sec. 62.106. SUSPENSION AND AUTOMATIC REINSTATEMENT OF  
3 ELIGIBILITY FOR CHILDREN IN JUVENILE FACILITIES. (a) In this  
4 section, "juvenile facility" means a facility for the placement,  
5 detention, or commitment of a child under Title 3, Family Code.

6 (b) To the extent allowed under federal law, if a child is  
7 confined in a juvenile facility, the commission shall suspend the  
8 child's eligibility for health benefits coverage under the child  
9 health plan during the period the child is confined in the facility.

10 (c) Not later than 48 hours after the commission is notified  
11 of the release from a juvenile facility of a child whose eligibility  
12 for health benefits coverage under the child health plan has been  
13 suspended under this section, the commission shall reinstate the  
14 child's eligibility, provided the child's eligibility  
15 certification period has not elapsed. Following the reinstatement,  
16 the child remains eligible until the expiration of the period for  
17 which the child was certified as eligible.

18 Sec. 62.107. NOTICE OF CERTAIN CONFINEMENTS IN JUVENILE  
19 FACILITIES. (a) In this section, "juvenile facility" has the  
20 meaning assigned by Section 62.106.

21 (b) A juvenile facility may notify the commission on the  
22 confinement in the facility of a child who is enrolled in the child  
23 health plan.

24 (c) If a juvenile facility chooses to provide the notice  
25 described by Subsection (b), the facility shall provide the notice  
26 electronically or by other appropriate means as soon as possible,  
27 but not later than the 30th day, after the date of the child's

1 confinement.

2 (d) A juvenile facility may notify the commission of the  
3 release of a child who, immediately before the child's confinement  
4 in the facility, was enrolled in the child health plan.

5 (e) If a juvenile facility chooses to provide the notice  
6 described by Subsection (d), the facility shall provide the notice  
7 electronically or by other appropriate means not later than 48  
8 hours after the child's release from the facility.

9 (f) If a juvenile facility chooses to provide the notice  
10 described by Subsection (d), at the time of the child's release, the  
11 facility shall provide the child with a written copy of the notice  
12 and a telephone number at which the child's parent or legal guardian  
13 may contact the commission regarding confirmation of or assistance  
14 relating to reinstatement of the child's eligibility for health  
15 benefits coverage under the child health plan, if applicable.

16 (g) The commission shall establish a means by which a  
17 juvenile facility, or an employee of the facility, may determine  
18 whether a child confined in the facility is or was, as appropriate,  
19 enrolled in the child health plan for purposes of this section.

20 (h) A juvenile facility, or an employee of the facility, is  
21 not liable in a civil action for damages resulting from a failure to  
22 comply with this section.

23 SECTION 3. Section 62.154(b), Health and Safety Code, as  
24 amended by S.B. No. 219, Acts of the 84th Legislature, Regular  
25 Session, 2015, is amended to read as follows:

26 (b) A child is not subject to a waiting period adopted under  
27 Subsection (a) if:

1           (1) the family lost coverage for the child as a result  
2 of:

3                   (A) termination of employment because of a layoff  
4 or business closing;

5                   (B) termination of continuation coverage under  
6 the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L.  
7 No. 99-272);

8                   (C) change in marital status of a parent of the  
9 child;

10                  (D) termination of the child's Medicaid  
11 eligibility because:

12                           (i) the child's family's earnings or  
13 resources increased; or

14                           (ii) the child reached an age at which  
15 Medicaid coverage is not available; or

16                   (E) a similar circumstance resulting in the  
17 involuntary loss of coverage;

18           (2) the family terminated health benefits plan  
19 coverage for the child because the cost to the child's family for  
20 the coverage exceeded 9.5 percent of the family's household income;

21           (3) the child has access to group-based health  
22 benefits plan coverage and is required to participate in the health  
23 insurance premium payment reimbursement program administered by  
24 the commission;

25           (4) the child is certified as presumptively eligible  
26 for the child health plan program under rules adopted under Section  
27 62.101(d);

1           (5) the commission has determined that other grounds  
2 exist for a good cause exception; or

3           (6) [~~(5)~~] federal law provides that the child is not  
4 subject to a waiting period adopted under Subsection (a).

5           SECTION 4. Section [32.026](#), Human Resources Code, is amended  
6 by adding Subsections (h), (i), and (j) to read as follows:

7           (h) As authorized by 42 U.S.C. Section 1396r-1a, the  
8 executive commissioner shall adopt rules providing for the  
9 determination and certification of presumptive eligibility for  
10 medical assistance for a child under 19 years of age who applies for  
11 and meets the basic eligibility requirements for medical  
12 assistance.

13           (i) The rules adopted under Subsection (h) must:

14           (1) allow only a juvenile facility for the placement,  
15 detention, or commitment of a child under Title 3, Family Code, to  
16 serve as a qualified entity and make a presumptive eligibility  
17 determination for the medical assistance program for a child,  
18 unless the presumptive eligibility determination is being made in  
19 accordance with rules adopted under Subsection (b) or Section  
20 [32.024\(y\)](#), or in accordance with 42 U.S.C. Section 1396a(a)(47);  
21 and

22           (2) identify the services and benefits, which must  
23 include mental health and substance abuse services, prescription  
24 drug benefits, and primary care services, that a child who is  
25 presumptively eligible for medical assistance may receive under the  
26 medical assistance program.

27           (j) Subsections (h) and (i) do not affect the presumptive

1 eligibility of a person under Subsection (b), Section 32.024(y), or  
2 42 U.S.C. Section 1396a(a)(47), including an authorized person's  
3 ability to make a presumptive eligibility determination under the  
4 medical assistance program or an applicant's eligibility under  
5 those provisions.

6 SECTION 5. Subchapter B, Chapter 32, Human Resources Code,  
7 is amended by adding Sections 32.0264 and 32.0265 to read as  
8 follows:

9 Sec. 32.0264. SUSPENSION AND AUTOMATIC REINSTATEMENT OF  
10 ELIGIBILITY FOR CHILDREN IN JUVENILE FACILITIES. (a) In this  
11 section, "juvenile facility" means a facility for the placement,  
12 detention, or commitment of a child under Title 3, Family Code.

13 (b) If a child is confined in a juvenile facility, the  
14 commission shall suspend the child's eligibility for medical  
15 assistance during the period the child is confined in the facility.

16 (c) Not later than 48 hours after the commission is notified  
17 of the release from a juvenile facility of a child whose eligibility  
18 for medical assistance has been suspended under this section, the  
19 commission shall reinstate the child's eligibility, provided the  
20 child's eligibility certification period has not elapsed.  
21 Following the reinstatement, the child remains eligible until the  
22 expiration of the period for which the child was certified as  
23 eligible.

24 Sec. 32.0265. NOTICE OF CERTAIN CONFINEMENTS IN JUVENILE  
25 FACILITIES. (a) In this section, "juvenile facility" has the  
26 meaning assigned by Section 32.0264.

27 (b) A juvenile facility may notify the commission on the

1 confinement in the facility of a child who is receiving medical  
2 assistance benefits.

3 (c) If a juvenile facility chooses to provide the notice  
4 described by Subsection (b), the facility shall provide the notice  
5 electronically or by other appropriate means as soon as possible,  
6 but not later than the 30th day, after the date of the child's  
7 confinement.

8 (d) A juvenile facility may notify the commission of the  
9 release of a child who, immediately before the child's confinement  
10 in the facility, was receiving medical assistance benefits.

11 (e) If a juvenile facility chooses to provide the notice  
12 described by Subsection (d), the facility shall provide the notice  
13 electronically or by other appropriate means not later than 48  
14 hours after the child's release from the facility.

15 (f) If a juvenile facility chooses to provide the notice  
16 described by Subsection (d), at the time of the child's release, the  
17 facility shall provide the child with a written copy of the notice  
18 and a telephone number at which the child's parent or legal guardian  
19 may contact the commission regarding confirmation of or assistance  
20 relating to reinstatement of the child's eligibility for medical  
21 assistance benefits, if applicable.

22 (g) The commission shall establish a means by which a  
23 juvenile facility, or an employee of the facility, may determine  
24 whether a child confined in the facility is or was, as appropriate,  
25 receiving medical assistance benefits for purposes of this section.

26 (h) A juvenile facility, or an employee of the facility, is  
27 not liable in a civil action for damages resulting from a failure to

1 comply with this section.

2 SECTION 6. The executive commissioner of the Health and  
3 Human Services Commission shall adopt the rules required by Section  
4 62.101(d), Health and Safety Code, as added by this Act, and Section  
5 32.026(h), Human Resources Code, as added by this Act, not later  
6 than January 1, 2016.

7 SECTION 7. Sections 62.106(b) and 62.107(b), Health and  
8 Safety Code, as added by this Act, and Sections 32.0264(b) and  
9 32.0265(b), Human Resources Code, as added by this Act, apply to a  
10 child whose period of confinement in a juvenile facility begins on  
11 or after the effective date of this Act, regardless of the date the  
12 child was determined eligible for child health plan coverage under  
13 Chapter 62, Health and Safety Code, or medical assistance under  
14 Chapter 32, Human Resources Code.

15 SECTION 8. Sections 62.106(c) and 62.107(d), Health and  
16 Safety Code, as added by this Act, and Sections 32.0264(c) and  
17 32.0265(d), Human Resources Code, as added by this Act, apply to the  
18 release of a child from a juvenile facility that occurs on or after  
19 the effective date of this Act, regardless of the date the child was  
20 initially confined in the facility.

21 SECTION 9. If before implementing any provision of this Act  
22 a state agency determines that a waiver or authorization from a  
23 federal agency is necessary for implementation of that provision,  
24 the agency affected by the provision shall request the waiver or  
25 authorization and may delay implementing that provision until the  
26 waiver or authorization is granted.

27 SECTION 10. This Act takes effect immediately if it



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1 receives a vote of two-thirds of all the members elected to each  
2 house, as provided by Section 39, Article III, Texas Constitution.  
3 If this Act does not receive the vote necessary for immediate  
4 effect, this Act takes effect September 1, 2015.