By: Coleman H.B. No. 3845

A BILL TO BE ENTITLED

AN ACT

relating to a "Texas Way" to reforming and addressing issues related to the Medicaid program, including the creation of an alternative program designed to ensure health benefit plan coverage to certain low-income individuals through the private marketplace; authorizing a fee.

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

ARTICLE 1. LEGISLATIVE INTENT

SECTION 1.01. (a) The legislature finds that:

(1) over a million citizens of this state fall into a health care coverage gap because they cannot qualify for Medicaid in this state but do not earn enough to qualify for federal tax credits that are available to assist those citizens with purchasing health benefit plan coverage through the private marketplace;

(2) it is imperative that this state act to ensure that these citizens no longer fall through the health care coverage gap; and

(3) this state should seek to address the unique health care needs of our citizens in the same way other states, including Indiana and Arkansas, have addressed the health care needs of their citizens.

(b) The legislative intent of this Act is to propose a "Texas Way" to closing the health care coverage gap that allows this state flexibility in addressing the needs of its citizens in a way

1 that will make the private marketplace accessible to uninsured
2 citizens of this state, promote personal responsibility,
3 effectively utilize this state's health care resources, reduce
4 expensive emergency room care, and protect citizens of this state
5 currently insured through the private marketplace from potentially
6 losing their federal tax credits.
7 ARTICLE 2. BLOCK GRANT FUNDING SYSTEM FOR STATE MEDICAID PROGRAM
8 SECTION 2.01. Subtitle I, Title 4, Government Code, is
9 amended by adding Chapter 540 to read as follows:
10 CHAPTER 540. BLOCK GRANT FUNDING SYSTEM FOR STATE MEDICAID PROGRAM
11 SUBCHAPTER A. GENERAL PROVISIONS
12 Sec. 540.001. DEFINITIONS. In this chapter:
13 (1) "Health benefit exchange" means an American Health
14 Benefit Exchange administered by the federal government or an
15 exchange created under Section 1311(b) of the Patient Protection
16 and Affordable Care Act (42 U.S.C. Section 18031(b)).
17 (2) "Medicaid program" means the medical assistance
18 program established and operated under Title XIX, Social Security
19 Act (42 U.S.C. Section 1396 et seq.).
20 (3) "State Medicaid program" means the medical
21 assistance program provided by this state under the Medicaid
22 program.
23 Sec. 540.002. FEDERAL AUTHORIZATION TO REFORM MEDICAID
24 REQUIRED. If the federal government establishes, through
25 conversion or otherwise, a block grant funding system for the
26 Medicaid program or otherwise authorizes the state Medicaid program
27 to operate under a block grant funding system, including under a

1 Medicaid program waiver, the commission, in cooperation with
2 applicable health and human services agencies, shall, subject to
3 Section 540.003, administer and operate the state Medicaid program
4 in accordance with this chapter.
5 Sec. 540.003. CONFLICT WITH OTHER LAW. To the extent of a
6 conflict between a provision of this chapter and:
7 (1) another provision of state law, the provision of
8 this chapter controls, subject to Section 541.002(b); and
9 (2) a provision of federal law or any authorization
10 described under Section 540.002, the federal law or authorization
11 controls.
12 Sec. 540.004. ESTABLISHMENT OF REFORMED STATE MEDICAID
13 PROGRAM. The commission shall establish a state Medicaid program
14 that provides benefits under a risk-based Medicaid managed care
15 model.
16 Sec. 540.005. RULES. The executive commissioner shall
17 adopt rules necessary to implement this chapter.
18 SUBCHAPTER B. ACUTE CARE
19 Sec. 540.051. ELIGIBILITY FOR MEDICAID ACUTE CARE. (a) An
20 individual is eligible to receive acute care benefits under the
21 state Medicaid program if the individual:
22 (1) has a household income at or below 100 percent of
23 the federal poverty level;
24 (2) is under 19 years of age and:
25 (A) is receiving Supplemental Security Income
26 (SSI) under 42 U.S.C. Section 1381 et seq.; or
27 (B) is in foster care or resides in another

1 residential care setting under the conservatorship of the
2 Department of Family and Protective Services; or
3 (3) meets the eligibility requirements that were in
4 effect on September 1, 2013.
5 (b) The commission shall provide acute care benefits under
6 the state Medicaid program to each individual eligible under this
7 section through the most cost-effective means, as determined by the
8 commission.
9 (c) If an individual is not eligible for the state Medicaid
10 program under Subsection (a), the commission shall refer the
11 individual to the program established under Chapter 541 that helps
12 connect eligible residents with health benefit plan coverage
13 through private market solutions, a health benefit exchange, or any
14 other resource the commission determines appropriate.
15 Sec. 540.052. MEDICAID SLIDING SCALE SUBSIDIES. (a) An
16 individual who is eligible for the state Medicaid program under
17 Section 540.051 may receive a Medicaid sliding scale subsidy to
18 purchase a health benefit plan from an authorized health benefit
19 plan issuer.
20 (b) A sliding scale subsidy provided to an individual under
21 this section must:
22 (1) be based on:
23 (A) the average premium in the market; and
24 (B) a realistic assessment of the individual's
25 ability to pay a portion of the premium; and
26 (2) include an enhancement for individuals who choose
27 a high deductible health plan with a health savings account.

1 (c) The commission shall ensure that counselors are made
2 available to individuals receiving a subsidy to advise the
3 individuals on selecting a health benefit plan that meets the
4 individuals' needs.
5 (d) An individual receiving a subsidy under this section is
6 responsible for paying:
7 (1) any difference between the premium costs
8 associated with the purchase of a health benefit plan and the amount
9 of the individual's subsidy under this section; and
10 (2) any copayments associated with the health benefit
11 plan.
12 (e) If the amount of a subsidy received by an individual
13 under this section exceeds the premium costs associated with the
14 individual's purchase of a health benefit plan, the individual may
15 deposit the excess amount in a health savings account that may be
16 used only in the manner described by Section 540.054(b).
17 Sec. 540.053. ADDITIONAL COST-SHARING SUBSIDIES. In
18 addition to providing a subsidy to an individual under Section
19 540.052, the commission shall provide additional subsidies for
20 coinsurance payments, copayments, deductibles, and other
21 cost-sharing requirements associated with the individual's health
22 benefit plan. The commission shall provide the additional
23 subsidies on a sliding scale based on income.
24 Sec. 540.054. DELIVERY OF SUBSIDIES; HEALTH SAVINGS
25 ACCOUNTS. (a) The commission shall determine the most appropriate
26 manner for delivering and administering subsidies provided under
27 Sections 540.052 and 540.053. In determining the most appropriate

1 manner, the commission shall consider depositing subsidy amounts
2 for an individual in a health savings account established for that
3 individual.
4 (b) A health savings account established under this section
5 may be used only to:
6 (1) pay health benefit plan premiums and cost-sharing
7 amounts; and
8 (2) if appropriate, purchase health care-related
9 goods and services.
10 Sec. 540.055. MEDICAID HEALTH BENEFIT PLAN ISSUERS AND
11 MINIMUM COVERAGE. The commission shall allow any health benefit
12 plan issuer authorized to write health benefit plans in this state
13 to participate in the state Medicaid program. The commission in
14 consultation with the commissioner of insurance shall establish
15 minimum coverage requirements for a health benefit plan to be
16 eligible for purchase under the state Medicaid program, subject to
17 the requirements specified by this chapter.
18 Sec. 540.056. REINSURANCE FOR PARTICIPATING HEALTH BENEFIT
19 PLAN ISSUERS. (a) The commission in consultation with the
20 commissioner of insurance shall study a reinsurance program to
21 reinsure participating health benefit plan issuers.
22 (b) In examining options for a reinsurance program, the
23 commission and commissioner of insurance shall consider a plan
24 design under which:
25 (1) a participating health benefit plan is not charged
26 a premium for the reinsurance; and
27 (2) the health benefit plan issuer retains risk on a

1 sliding scale.
2 SUBCHAPTER C. LONG-TERM SERVICES AND SUPPORTS
3 Sec. 540.101. PLAN TO REFORM DELIVERY OF LONG-TERM SERVICES
4 AND SUPPORTS. The commission shall develop a comprehensive plan to
5 reform the delivery of long-term services and supports that is
6 designed to achieve the following objectives under the state
7 Medicaid program or any other program created as an alternative to
8 the state Medicaid program:
9 (1) encourage consumer direction;
10 (2) simplify and streamline the provision of services;
11 (3) provide flexibility to design benefits packages
12 that meet the needs of individuals receiving long-term services and
13 supports under the program;
14 (4) improve the cost-effectiveness and sustainability
15 of the provision of long-term services and supports;
16 (5) reduce reliance on institutional settings; and
17 (6) encourage cost sharing by family members when
18 appropriate.
19 ARTICLE 3. IMMEDIATE REFORM: PROGRAM TO ENSURE HEALTH BENEFIT
20 COVERAGE FOR CERTAIN INDIVIDUALS THROUGH PRIVATE MARKETPLACE
21 SECTION 3.01. Subtitle I, Title 4, Government Code, is
22 amended by adding Chapter 541 to read as follows:
23 CHAPTER 541. PROGRAM TO ENSURE HEALTH BENEFIT PLAN COVERAGE FOR
24 CERTAIN INDIVIDUALS THROUGH PRIVATE MARKET SOLUTIONS
25 SUBCHAPTER A. GENERAL PROVISIONS
26 Sec. 541.001. DEFINITION. In this chapter, "medical
27 assistance program" means the program established under Chapter 32,

1 Human Resources Code.
2 Sec. 541.002. CONFLICT WITH OTHER LAW. (a) Except as
3 provided by Subsection (b), to the extent of a conflict between a
4 provision of this chapter and:
5 (1) another provision of state law, the provision of
6 this chapter controls; and
7 (2) a provision of federal law or any authorization
8 described under Subchapter B, the federal law or authorization
9 controls.
10 (b) The program operated under this chapter is in addition
11 to any medical assistance program operated under a block grant
12 funding system under Chapter 540.
13 Sec. 541.003. PROGRAM FOR HEALTH BENEFIT PLAN COVERAGE
14 THROUGH PRIVATE MARKET SOLUTIONS. Subject to the requirements of
15 this chapter, the commission in consultation with the Texas
16 Department of Insurance shall develop and implement a program that
17 helps connect certain low-income residents of this state with
18 health benefit plan coverage through private market solutions.
19 Sec. 541.004. NOT AN ENTITLEMENT. This chapter does not
20 establish an entitlement to assistance in obtaining health benefit
21 plan coverage.
22 Sec. 541.005. RULES. The executive commissioner shall
23 adopt rules necessary to implement this chapter.
24 SUBCHAPTER B. FEDERAL AUTHORIZATION
25 Sec. 541.051. FEDERAL AUTHORIZATION FOR FLEXIBILITY TO
26 ESTABLISH PROGRAM. (a) The commission in consultation with the
27 Texas Department of Insurance shall negotiate with the United

1 States secretary of health and human services, the federal Centers
2 for Medicare and Medicaid Services, and other appropriate persons
3 for purposes of seeking a waiver or other authorization necessary
4 to obtain the flexibility to use federal matching funds to help
5 provide, in accordance with Subchapter C, health benefit plan
6 coverage to certain low-income individuals through private market
7 solutions.
8 (b) Any agreement reached under this section must:
9 (1) create a program that is made cost neutral to this
10 state by:
11 (A) leveraging premium tax revenues; and
12 (B) achieving cost savings through offsets to
13 general revenue health care costs or the implementation of other
14 cost savings mechanisms;
15 (2) create more efficient health benefit plan coverage
16 options for eligible individuals through:
17 (A) program changes that may be made without the
18 need for additional federal approval; and
19 (B) program changes that require additional
20 federal approval;
21 (3) require the commission to achieve efficiency and
22 reduce unnecessary utilization, including duplication, of health
23 care services;
24 (4) be designed with the goals of:
25 (A) relieving local tax burdens;
26 (B) reducing general revenue reliance so as to
27 make general revenue available for other state priorities; and

1 (C) minimizing the impact of any federal health
2 care laws on Texas-based businesses; and
3 (5) afford this state the opportunity to develop a
4 state-specific way with benefits that specifically meet the unique
5 needs of this state's population.
6 (c) An agreement reached under this section may be:
7 (1) limited in duration; and
8 (2) contingent on continued funding by the federal
9 government.
10 SUBCHAPTER C. PROGRAM REQUIREMENTS
11 Sec. 541.101. ENROLLMENT ELIGIBILITY. (a) Subject to
12 Subsection (b), an individual may be eligible to enroll in a program
13 designed and established under this chapter if the person:
14 (1) is younger than 65;
15 (2) has a household income at or below 133 percent of
16 the federal poverty level; and
17 (3) is not otherwise eligible to receive benefits
18 under the medical assistance program, including through a program
19 operated under Chapter 540 through a block grant funding system or a
20 waiver, other than one granted under this chapter, to the program.
21 (b) The executive commissioner may amend or further define
22 the eligibility requirements of this section if the commission
23 determines it necessary to reach an agreement under Subchapter B.
24 Sec. 541.102. MINIMUM PROGRAM REQUIREMENTS. A program
25 designed and established under this chapter must:
26 (1) if cost-effective for this state, provide premium
27 assistance to purchase health benefit plan coverage in the private

market, including health benefit plan coverage offered through a managed care delivery model;

(2) provide enrollees with access to health benefits, including benefits provided through a managed care delivery model, that:

(A) are tailored to the enrollees;

(B) provide levels of coverage that are customized to meet health care needs of individuals within defined categories of the enrolled population; and

(C) emphasize personal responsibility and accountability through flexible and meaningful cost-sharing requirements and wellness initiatives, including through incentives for compliance with health, wellness, and treatment strategies and disincentives for noncompliance;

(3) include pay-for-performance initiatives for private health benefit plan issuers that participate in the program;

(4) use technology to maximize the efficiency with which the commission and any health benefit plan issuer, health care provider, or managed care organization participating in the program manages enrollee participation;

(5) allow recipients under the medical assistance program to enroll in the program to receive premium assistance as an alternative to the medical assistance program;

(6) encourage eligible individuals to enroll in other private or employer-sponsored health benefit plan coverage, if available and appropriate;

1 (7) encourage the utilization of health care services
2 in the most appropriate low-cost settings; and
3 (8) establish health savings accounts for enrollees,
4 as appropriate.
5 SECTION 3.02. The Health and Human Services Commission in
6 consultation with the Texas Department of Insurance and the
7 Medicaid Reform Task Force shall actively develop a proposal for
8 the authorization from the appropriate federal entity as required
9 by Subchapter B, Chapter 541, Government Code, as added by this
10 article. As soon as possible after the effective date of this Act,
11 the Health and Human Services Commission shall request and actively
12 pursue obtaining the authorization from the appropriate federal
13 entity.
14 ARTICLE 4. FEDERAL AUTHORIZATION AND EFFECTIVE DATE
15 SECTION 6.01. Subject to Section 3.02 of this Act, if before
16 implementing any provision of this Act a state agency determines
17 that a waiver or authorization from a federal agency is necessary
18 for implementation of that provision, the agency affected by the
19 provision shall request the waiver or authorization and may delay
20 implementing that provision until the waiver or authorization is
21 granted.
22 SECTION 6.02. This Act takes effect September 1, 2015.