

By: Longoria

H.B. No. 4115

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a home and community support services improvement pilot program under the Medicaid managed care program.

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

SECTION 1. Chapter 533, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. HOME AND COMMUNITY SUPPORT SERVICES IMPROVEMENT  
PILOT PROGRAM

Sec. 533.101. DEFINITIONS. In this subchapter:

(1) "Electronic visit verification device" means a device that is installed in an individual's residence and is used by a provider agency to verify that a personal care attendant arrives at the individual's residence to provide services.

(2) "Health service region" means a public health region designated under Section 121.007, Health and Safety Code.

(3) "Participating provider agency" means a provider agency participating in the pilot program established under this subchapter.

(4) "Personal care attendant" means an individual employed by a provider agency to provide personal care services. The term does not include an individual described by Section 142.003(a)(1) or (2), Health and Safety Code.

(5) "Personal care services" means nonmedical

1 services that enable an individual to engage in the activities of  
2 daily living or to perform the physical functions required for  
3 independent living, including:

4 (A) bathing, dressing, grooming, feeding,  
5 exercising, toileting, positioning, assisting with  
6 self-administered medications, routine hair and skin care, and  
7 transfer or ambulation; and

8 (B) light housekeeping, grocery shopping, meal  
9 preparation, and laundry.

10 (6) "Pilot program" means the program established  
11 under this subchapter.

12 (7) "Provider agency" means an agency that contracts  
13 with a managed care organization that contracts with the commission  
14 to provide health care services to recipients for the provision of  
15 personal care services by the agency. The term includes a home and  
16 community support services agency licensed under Chapter 142,  
17 Health and Safety Code, and a continuing care facility licensed  
18 under Chapter 246, Health and Safety Code.

19 Sec. 533.102. PILOT PROGRAM. (a) The commission shall  
20 establish a pilot program in the health service region designated  
21 as Region 11 to:

22 (1) improve the delivery of home and community support  
23 services by provider agencies under the Medicaid managed care  
24 program;

25 (2) reduce recipient rehospitalization and unplanned  
26 doctor visits;

27 (3) achieve cost savings; and

1           (4) reduce fraud, abuse, and waste.

2           (b) The commission, with the assistance of interested  
3 parties, including participating provider agencies, managed care  
4 organizations, researchers, and persons who provide funding for the  
5 program, shall develop the pilot program. The program must:

6           (1) provide services to at least 15,000 and not more  
7 than 20,000 recipients by its final year of operation; and

8           (2) include the components described by this  
9 subchapter.

10          (c) The commission shall contract with an independent or  
11 university-based health research organization, such as a  
12 university group, to assist with the pilot program, by conducting  
13 research for and evaluating the effectiveness of the program. The  
14 research organization may:

15          (1) determine data that will be reported and  
16 performance measures that will be used under the program;

17          (2) provide feedback throughout the operation of the  
18 program to adjust data reporting;

19          (3) evaluate the relationship between changes  
20 implemented by the program and recipient health outcomes;

21          (4) compare recipient health outcomes with those of  
22 recipients not receiving services in the program; and

23          (5) prepare a final report that analyzes the  
24 effectiveness of the program and makes recommendations about  
25 whether to continue the program or any part of the program.

26          Sec. 533.103. PERSONAL CARE ATTENDANT TRAINING. The  
27 commission, in consultation with participating provider agencies

1 and a local community college or health care training organization,  
2 shall develop as a component of the pilot program a training program  
3 for personal care attendants. The program's curriculum must focus  
4 on helping a personal care attendant avoid recipient  
5 rehospitalization and must include instruction about:

6 (1) recognition of potential adverse health care  
7 conditions;

8 (2) trip and fall avoidance;

9 (3) basic nutrition and cooking;

10 (4) medication prompting; and

11 (5) mobility and activity enhancement.

12 Sec. 533.104. INCREASED SUPERVISION AND COMPLIANCE. As a  
13 component of the pilot program, the commission shall require a  
14 participating provider agency to:

15 (1) increase supervision of the agency's personal care  
16 attendants;

17 (2) implement stricter compliance protocols for  
18 attendants; and

19 (3) at least quarterly conduct scheduled and  
20 unscheduled visits to a recipient's home to confer with the  
21 recipient about the personal care services the recipient is  
22 receiving.

23 Sec. 533.105. FRAUD, WASTE, AND ABUSE PREVENTION PROTOCOLS.  
24 As a component of the pilot program, the commission shall require a  
25 participating provider agency to:

26 (1) develop enhanced fraud, waste, and abuse  
27 prevention protocols that address collusion and fraud among

1 recipients, personal care attendants, and other provider agency  
2 staff; and

3 (2) implement the protocols during a recipient's  
4 enrollment, an agency's hiring process and employment reviews, and  
5 other critical points in the delivery of personal care services.

6 Sec. 533.106. PERSONAL CARE ATTENDANT REGISTRY. The  
7 commission, in consultation with participating provider agencies  
8 and managed care organizations that contract with the commission to  
9 provide health care services to recipients, shall establish as a  
10 component of the pilot program a personal care attendant registry  
11 that allows the commission to:

12 (1) track personal care attendant performance by  
13 measuring recipient health outcomes; and

14 (2) identify each personal care attendant who fails to  
15 meet certain standards, including following a participating  
16 provider agency's implementation of progressive work improvement  
17 efforts for the attendant.

18 Sec. 533.107. RECIPIENT TRANSFER PROTOCOLS. (a) As a  
19 component of the pilot program, the commission shall require a  
20 participating provider agency to develop and implement enhanced  
21 recipient transfer protocols to:

22 (1) prevent a recipient and personal care attendant  
23 from moving to a different provider agency in an effort to avoid  
24 disciplinary action against or unfairly leverage a raise for the  
25 personal care attendant;

26 (2) prevent fraud, waste, and abuse; and

27 (3) identify a poorly performing personal care

1 attendant.

2 (b) An enhanced recipient transfer protocol developed under  
3 this section must allow a recipient to choose a provider agency.

4 Sec. 533.108. ENHANCED ELECTRONIC VISIT VERIFICATION  
5 DEVICE COMPLIANCE. (a) As a component of the pilot program, the  
6 commission shall require a participating provider agency to develop  
7 and implement enhanced electronic visit verification device  
8 compliance protocols to prevent fraud and waste due to an  
9 attendant's reporting of hours that the attendant did not work.

10 (b) The commission shall meet with developers or providers  
11 of electronic visit verification devices used by provider agencies  
12 to explore additional options to counter fraud using the systems.

13 Sec. 533.109. ANTI-SOLICITATION AND ANTI-KICKBACK RULES.  
14 The commission, in consultation with participating provider  
15 agencies, shall determine as a component of the pilot program  
16 strategies to strengthen anti-solicitation and anti-kickback rules  
17 in order to prevent fraud and waste and improve the continuity of  
18 care for recipients.

19 Sec. 533.110. ENHANCED PROVIDER AGENCY STANDARDS. The  
20 commission, in consultation with participating provider agencies,  
21 shall develop as a component of the pilot program stricter provider  
22 agency standards to continually improve the delivery of home and  
23 community support services. The standards must be outcome-based  
24 and measured by recipient health outcomes or satisfaction.

25 Sec. 533.111. INCREASED ENFORCEMENT. (a) The commission,  
26 in consultation with the commission's office of inspector general  
27 and participating provider agencies, shall develop and implement:

1           (1) strengthened enforcement strategies for the pilot  
2 program components; and

3           (2) effective strategies for provider agency  
4 self-regulation with respect to the pilot program components and  
5 other applicable requirements.

6           (b) The strategies must focus on:

7           (1) preventing fraud, waste, and abuse;

8           (2) eliminating from the Medicaid managed care program  
9 the provider agencies and personal care attendants who have the  
10 poorest performance;

11           (3) improving health care outcomes for recipients; and

12           (4) increasing savings for the state.

13           Sec. 533.112. MANAGED CARE ORGANIZATION PARTNERSHIPS. The  
14 commission shall coordinate as a component of the pilot program  
15 partnerships between participating provider agencies and managed  
16 care organizations that contract with the commission to provide  
17 health care services to recipients to improve the delivery of home  
18 and community support services under the Medicaid managed care  
19 program.

20           Sec. 533.113. REPORT. (a) Not later than September 1,  
21 2021, the commission shall submit to the legislature a report  
22 concerning the pilot program that includes:

23           (1) the results of any research related to the  
24 program;

25           (2) the effectiveness of each component of the  
26 program;

27           (3) any reports made by a participant or research

1 organization during the course of the program;

2 (4) other relevant information concerning the  
3 program; and

4 (5) a recommendation about whether the pilot program  
5 should be continued in whole or in part, expanded, or terminated.

6 (b) The commission shall provide the report prepared under  
7 Subsection (a) to participating provider agencies and managed care  
8 organizations.

9 Sec. 533.114. GIFTS, GRANTS, AND DONATIONS. The commission  
10 may solicit and accept gifts, grants, and donations of any kind and  
11 from any source for purposes of implementing this subchapter.

12 Sec. 533.115. RULES. The executive commissioner may adopt  
13 rules necessary to implement this subchapter.

14 Sec. 533.116. EXPIRATION. This subchapter expires  
15 September 1, 2023.

16 SECTION 2. Not later than January 1, 2018, the Health and  
17 Human Services Commission shall establish the home and community  
18 support services improvement pilot program as required by  
19 Subchapter F, Chapter 533, Government Code, as added by this Act.

20 SECTION 3. If before implementing any provision of this Act  
21 a state agency determines that a waiver or authorization from a  
22 federal agency is necessary for implementation of that provision,  
23 the agency affected by the provision shall request the waiver or  
24 authorization and may delay implementing that provision until the  
25 waiver or authorization is granted.

26 SECTION 4. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as



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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2017.