86R5769 KKR-D

By:  Krause H.B. No. 3747

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of children and prioritization of persons on waiting lists for certain Medicaid long-term care services waiver programs.

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

SECTION 1.  Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.0601 and 531.0602 to read as follows:

Sec. 531.0601.  LONG-TERM CARE SERVICES WAIVER PROGRAM INTEREST LISTS. (a) This section applies only to a child who becomes ineligible for services under the medically dependent children (MDCP) waiver program because the child no longer meets:

(1)  the level of care criteria for medical necessity for nursing facility care; or

(2)  the age requirement for the program.

(b)  A legally authorized representative of a child who is notified by the commission that the child is no longer eligible for the medically dependent children (MDCP) waiver program may request that the commission:

(1)  return the child to the interest list for the program unless the child is ineligible due to the child's age; or

(2)  place the child on the interest list for another Section 1915(c) waiver program.

(c)  At the time a child's legally authorized representative makes a request under Subsection (b), the commission shall:

(1)  for a child who becomes ineligible for the reason described by Subsection (a)(1), place the child:

(A)  on the interest list for the medically dependent children (MDCP) waiver program in the first position on the list; or

(B)  except as provided by Subdivision (3), on the interest list for another Section 1915(c) waiver program in a position relative to other persons on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program;

(2)  except as provided by Subdivision (3), for a child who becomes ineligible for the reason described by Subsection (a)(2), place the child on the interest list for another Section 1915(c) waiver program in a position relative to other persons on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program; or

(3)  for a child who becomes ineligible for a reason described by Subsection (a) and who is already on an interest list for another Section 1915(c) waiver program, move the child to a position on the interest list relative to other persons on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program, if that date is earlier than the date the child was initially placed on the interest list for the other waiver program.

(d)  At the time the commission provides notice to a legally authorized representative that a child is no longer eligible for the medically dependent children (MDCP) waiver program, the commission shall inform the representative in writing about the options under this section for placing the child on an interest list.

Sec. 531.0602.  MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM REASSESSMENTS. (a) To the extent allowed by federal law, the commission shall require that a child participating in the medically dependent children (MDCP) waiver program be reassessed to determine whether the child meets the level of care criteria for medical necessity for nursing facility care only if the child has a significant change in function that may affect the medical necessity for that level of care instead of requiring that the reassessment be made annually.

(b)  If federal law requires that a reassessment of a child participating in the medically dependent children (MDCP) waiver program to determine whether the child meets the level of care criteria for medical necessity for nursing facility care be made annually, the commission shall allow the reassessment to be made on an expedited basis.

SECTION 2.  As soon as possible after the effective date of this Act, the Health and Human Services Commission shall identify each child who became ineligible for services under the medically dependent children (MDCP) waiver program on or after July 1, 2016, and before January 1, 2019, based on the child's level of care assessment. The commission shall, on request of the parent or legally authorized representative of an identified child, reassess the child to determine whether the child meets the level of care criteria for medical necessity for nursing facility care required to participate in the medically dependent children (MDCP) waiver program.

SECTION 3.  Not later than December 1, 2019, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Sections 531.0601 and 531.0602, Government Code, as added by this Act.

SECTION 4.  Section 531.0601, Government Code, as added by this Act, applies only to a child who becomes ineligible for the medically dependent children (MDCP) waiver program on or after December 1, 2019.

SECTION 5.  Section 531.0602, Government Code, as added by this Act, applies only to a reassessment of a child's eligibility for the medically dependent children (MDCP) waiver program made on or after December 1, 2019.

SECTION 6.  If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 7.  This Act takes effect September 1, 2019.