

By: Davis of Harris, Harless, Price, Zerwas,
Guerra, et al.

H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to early childhood intervention and rehabilitative and
habilitative services.

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

SECTION 1. Section 73.009(a), Human Resources Code, is
amended to read as follows:

(a) The commission [~~department~~] shall develop and the
executive commissioner shall establish policies concerning
services described by this section. A child under three years of
age and the child's parent, guardian, or other legally authorized
representative [~~family~~] may be referred for services described by
this section if the child is:

- (1) identified as having a developmental delay;
- (2) suspected of having a developmental delay; or
- (3) considered at risk of developmental delay.

SECTION 2. Chapter 73, Human Resources Code, is amended by
adding Sections 73.0111 and 73.012 to read as follows:

Sec. 73.0111. PROVIDER OMBUDSMAN. (a) In this section,
"ombudsman" means the individual designated as the ombudsman for
providers of services authorized under this chapter.

(b) The executive commissioner shall designate an ombudsman
for providers of services authorized under this chapter.

(c) The ombudsman's office is administratively attached to
the office of the ombudsman of the commission.

1 (d) The commission may use an alternate title for the
2 ombudsman in provider-directed materials if the commission
3 determines that the alternate title would benefit providers'
4 understanding of or access to ombudsman services.

5 (e) The ombudsman serves as a neutral party to assist
6 providers of services authorized under this chapter in resolving
7 issues related to providing early childhood intervention services
8 under this chapter, including through the STAR Kids managed care
9 program.

10 (f) The ombudsman shall:

11 (1) provide dispute and complaint resolution
12 services;

13 (2) perform provider protection and advocacy
14 functions;

15 (3) collect inquiry and complaint data; and

16 (4) at least annually, submit a report to the
17 commission relating to the inquiry and complaint data collected
18 under Subdivision (3) and make recommendations to the commission on
19 how to improve the provision of early childhood intervention
20 services under this chapter.

21 (g) The executive commissioner by rule shall adopt and
22 ensure the use of procedures for the reporting, monitoring, and
23 resolution of disputes and complaints described by Subsection (f)
24 that are consistent with the procedures adopted and used under
25 Medicaid.

26 Sec. 73.012. GUIDANCE ON REIMBURSEMENT METHODOLOGY FOR CASE
27 MANAGEMENT SERVICES. (a) The executive commissioner shall request

1 clear direction and guidance from the federal Centers for Medicare
2 and Medicaid Services on the reimbursement methodology that may be
3 used for the provision of case management services under this
4 chapter, including direction on allowable and unallowable costs.

5 (b) This section expires September 1, 2021.

6 SECTION 3. Subtitle B, Title 3, Human Resources Code, is
7 amended by adding Chapter 74 to read as follows:

8 CHAPTER 74. TELE-CONNECTIVE PILOT PROGRAM

9 Sec. 74.0001. DEFINITIONS. In this chapter:

10 (1) "Commission" means the Health and Human Services
11 Commission.

12 (2) "Education service center region" means a
13 geographic region served by a regional education service center
14 under Chapter 8, Education Code.

15 (3) "Eligible child" means a child who is eligible for
16 early childhood intervention services under Chapter 73.

17 (4) "Executive commissioner" means the executive
18 commissioner of the Health and Human Services Commission.

19 (5) "Tele-connective pilot program" means the program
20 developed and implemented under Section 74.0002.

21 (6) "Telehealth service" and "telemedicine medical
22 service" have the meanings assigned by Section 111.001, Occupations
23 Code.

24 Sec. 74.0002. TELE-CONNECTIVE PILOT PROGRAM. (a) The
25 commission shall develop and implement a pilot program to provide
26 early childhood intervention services under Chapter 73 to eligible
27 children through the provision of telehealth and telemedicine

1 medical services delivered using access points established in one
2 or more education service center regions selected for
3 implementation of the program. Access points may be established:

4 (1) at schools, regional education service centers,
5 and other entities located in an education service center region in
6 which the program is implemented;

7 (2) in home-based settings; and

8 (3) through other modes the commission determines
9 appropriate.

10 (b) In developing and implementing the tele-connective
11 pilot program, the commission shall ensure the program aligns with
12 the provision of existing telehealth and telemedicine medical
13 services.

14 Sec. 74.0003. EDUCATION SERVICE CENTER REGION SELECTION.

15 The commission in cooperation with the Texas Education Agency shall
16 select the education service center regions in which to implement
17 the tele-connective pilot program. In determining the regions in
18 which to implement the program, the commission and the Texas
19 Education Agency shall:

20 (1) consider each region in which there is:

21 (A) a low or inadequate number of service
22 providers authorized under Chapter 73; or

23 (B) a significant risk of losing service
24 providers authorized under Chapter 73; and

25 (2) implement the program only in regions in which the
26 implementation is reasonable and feasible.

27 Sec. 74.0004. PROVIDER PARTICIPATION. (a) The commission

1 shall ensure that all providers of services under Chapter 73,
2 including school districts, are allowed to participate as providers
3 in the tele-connective pilot program and provide services both
4 inside and outside a school-based setting.

5 (b) The commission shall track the service hours of
6 providers participating in the tele-connective pilot program.

7 Sec. 74.0005. ADEQUATE NETWORK OF ACCESS POINTS. (a) The
8 commission, in consultation with the Texas Education Agency, shall:

9 (1) establish any school-based provider access points
10 under the tele-connective pilot program; and

11 (2) ensure that an adequate number of school-based and
12 non-school-based access points are established in education
13 service center regions participating in the program.

14 (b) When selecting access points in which to implement the
15 tele-connective pilot program, the commission and the Texas
16 Education Agency shall consider the availability of existing
17 infrastructure.

18 Sec. 74.0006. AUTOMATIC AND VOLUNTARY PARTICIPATION OF
19 CERTAIN ELIGIBLE CHILDREN. (a) Subject to Subsection (b), the
20 executive commissioner shall, after receiving recommendations from
21 the advisory committee established under Section 73.004, by rule
22 establish which eligible children will be automatically enrolled in
23 the tele-connective pilot program.

24 (b) The parent, guardian, or other legally authorized
25 representative of an eligible child may, at any time, elect to opt
26 the child out of the tele-connective pilot program.

27 (c) A child who is enrolled in the tele-connective pilot

1 program may receive early childhood intervention services through
2 the program only to the extent the services are available and
3 suitable. Enrollment in the tele-connective pilot program does not
4 prevent a child from receiving early childhood intervention
5 services in the child's home or other natural environment.

6 Sec. 74.0007. SCHOOL DISTRICT EMPLOYEE TRAINING. The Texas
7 Education Agency shall develop a training course on the
8 tele-connective pilot program to be given to appropriate school
9 district employees.

10 Sec. 74.0008. INITIAL SCREENING AND EVALUATION. (a) The
11 parent, guardian, or other legally authorized representative of an
12 eligible child must be:

13 (1) present during an initial screening or evaluation
14 under the tele-connective pilot program; and

15 (2) given the opportunity to opt the child out of the
16 tele-connective pilot program at the time of the child's initial
17 screening or evaluation.

18 (b) Notwithstanding any other law, after a child is enrolled
19 in the tele-connective pilot program, early childhood intervention
20 services, including any initial treatment or prescription, that are
21 delivered or issued by a physician or by a health care provider
22 acting under the delegation or supervision of the physician or
23 under the health care provider's license may be provided using
24 telecommunications or other information technology.

25 Sec. 74.0009. PROVIDER REIMBURSEMENT. The executive
26 commissioner in adopting rules governing the tele-connective pilot
27 program shall ensure that provider reimbursement for a telehealth

1 or telemedicine medical service is made at a rate that is comparable
2 to the rate paid under Medicaid for the provision of the same or
3 substantially similar services.

4 Sec. 74.0010. CONFIDENTIALITY OF INFORMATION. The
5 commission shall ensure that the tele-connective pilot program
6 complies with federal and state law regarding confidentiality of
7 medical information, including the Health Insurance Portability
8 and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and
9 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
10 Section 1232g).

11 Sec. 74.0011. ACCESS POINT EVALUATION. Not later than
12 September 1, 2020, the commission shall conduct an evaluation of
13 the tele-connective pilot program to ensure that an adequate number
14 of access points have been established in each education service
15 center region selected for implementation of the program. This
16 section expires January 1, 2021.

17 Sec. 74.0012. REPORT. Not later than January 1, 2021, the
18 commission shall submit an initial report to the governor, the
19 lieutenant governor, the speaker of the house of representatives,
20 and the presiding officers of the standing committees of the senate
21 and house of representatives having primary jurisdiction over the
22 early childhood intervention program authorized by Chapter 73. The
23 report must evaluate the operation of the tele-connective pilot
24 program and make recommendations regarding the continuation or
25 expansion of the program.

26 Sec. 74.0013. FUNDING. The commission shall actively seek
27 and apply for any available federal money to support the

1 tele-connective pilot program, including federal money made
2 available by the:

3 (1) Federal Communications Commission, including
4 money available under the federal Rural Health Care Program;

5 (2) United States Health Resources and Services
6 Administration's Office for the Advancement of Telehealth; and

7 (3) United States Department of Agriculture,
8 including the Distance Learning and Telemedicine Grant Program
9 established under 7 C.F.R. Part 1734.

10 Sec. 74.0014. EXPIRATION. This chapter expires September
11 1, 2023.

12 SECTION 4. Subchapter A, Chapter 302, Labor Code, is
13 amended by adding Section 302.0061 to read as follows:

14 Sec. 302.0061. WORKFORCE DEVELOPMENT GRANTS FOR PROVIDERS
15 UNDER EARLY CHILDHOOD INTERVENTION PROGRAM. (a) In this section,
16 "early childhood intervention program" means the program
17 established under Chapter 73, Human Resources Code, to provide
18 early childhood intervention services in accordance with Part C,
19 Individuals with Disabilities Education Act (IDEA)(20 U.S.C.
20 Section 1431 et seq.).

21 (b) The commission shall actively seek and apply for federal
22 funding to establish a program designed to provide workforce
23 development grants to providers participating in the early
24 childhood intervention program for purposes of improving the
25 provision of program services by offering providers appropriate
26 education and training.

27 SECTION 5. (a) The heading to Subchapter E, Chapter 1367,

1 Insurance Code, is amended to read as follows:

2 SUBCHAPTER E. EARLY CHILDHOOD INTERVENTION SERVICES AND
3 DEVELOPMENTAL DELAYS

4 (b) Section 1367.201, Insurance Code, is amended to read as
5 follows:

6 Sec. 1367.201. DEFINITION. In this subchapter,
7 rehabilitative and habilitative therapies and related services
8 include:

- 9 (1) occupational therapy evaluations and services;
- 10 (2) physical therapy evaluations and services;
- 11 (3) speech therapy evaluations and services; ~~and~~
- 12 (4) dietary or nutritional evaluations;
- 13 (5) specialized skills training by a person certified
14 as an early intervention specialist;
- 15 (6) applied behavior analysis treatment by a licensed
16 behavior analyst or licensed psychologist; and
- 17 (7) case management provided by a person certified as
18 an early intervention specialist.

19 (c) Section 1367.202, Insurance Code, is amended to read as
20 follows:

21 Sec. 1367.202. APPLICABILITY OF SUBCHAPTER. (a) This
22 subchapter applies only to a health benefit plan that:

- 23 (1) provides benefits for medical or surgical expenses
24 incurred as a result of a health condition, accident, or sickness,
25 including an individual, group, blanket, or franchise insurance
26 policy or insurance agreement, a group hospital service contract,
27 or an individual or group evidence of coverage that is offered by:

1 (A) an insurance company;

2 (B) a group hospital service corporation
3 operating under Chapter 842;

4 (C) a fraternal benefit society operating under
5 Chapter 885;

6 (D) a stipulated premium company operating under
7 Chapter 884;

8 (E) a health maintenance organization operating
9 under Chapter 843; or

10 (F) a multiple employer welfare arrangement
11 subject to regulation under Chapter 846;

12 (2) is offered by an approved nonprofit health
13 corporation that holds a certificate of authority under Chapter
14 844; or

15 (3) provides health and accident coverage through a
16 risk pool created under Chapter 172, Local Government Code,
17 notwithstanding Section 172.014, Local Government Code, or any
18 other law.

19 (b) Notwithstanding any other law, this subchapter also
20 applies to a standard health benefit plan provided under Chapter
21 1507.

22 (d) Section 1367.203, Insurance Code, is amended to read as
23 follows:

24 Sec. 1367.203. EXCEPTION. (a) This subchapter does not
25 apply to:

26 (1) a plan that provides coverage:

27 (A) only for a specified disease or for another

1 limited benefit;

2 (B) only for accidental death or dismemberment;

3 (C) for wages or payments in lieu of wages for a
4 period during which an employee is absent from work because of
5 sickness or injury;

6 (D) as a supplement to a liability insurance
7 policy;

8 (E) for credit insurance;

9 (F) only for dental or vision care; or

10 (G) only for indemnity for hospital confinement;

11 (2) a small employer health benefit plan written under
12 Chapter 1501;

13 (3) a Medicare supplemental policy as defined by
14 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

15 (4) a workers' compensation insurance policy;

16 (5) medical payment insurance coverage provided under
17 a motor vehicle insurance policy; or

18 (6) a long-term care insurance policy, including a
19 nursing home fixed indemnity policy, unless the commissioner
20 determines that the policy provides benefit coverage so
21 comprehensive that the policy is a health benefit plan as described
22 by Section 1367.202.

23 (b) This subchapter does not apply to a qualified health
24 plan to the extent that a determination is made under 45 C.F.R.
25 Section 155.170 that:

26 (1) this subchapter requires the plan to offer
27 benefits in addition to the essential health benefits required

1 under 42 U.S.C. Section 18022(b); and

2 (2) this state is required to defray the cost of the
3 benefits mandated under this subchapter.

4 (e) Section 1367.204, Insurance Code, is amended to read as
5 follows:

6 Sec. 1367.204. PROVISION [~~OFFER~~] OF COVERAGE REQUIRED.

7 [~~(a)~~] A health benefit plan issuer must provide [~~offer~~] coverage
8 for rehabilitative and habilitative therapies and related services
9 in accordance [~~that complies~~] with this subchapter.

10 [~~(b) The individual or group policy or contract holder may~~
11 ~~reject coverage required to be offered under this section.~~]

12 (f) Section 1367.205, Insurance Code, is amended by
13 amending Subsections (a) and (b) and adding Subsection (d) to read
14 as follows:

15 (a) A health benefit plan required to provide [~~that~~
16 ~~provides~~] coverage for rehabilitative and habilitative therapies
17 and related services under this subchapter may not prohibit or
18 restrict payment for covered services provided to a child and
19 determined to be necessary to and provided in accordance with an
20 individualized family service plan issued by the Health and Human
21 Services Commission [~~Interagency Council on Early Childhood~~
22 ~~Intervention~~] under Chapter 73, Human Resources Code.

23 (b) Rehabilitative and habilitative therapies and related
24 services described by Subsection (a) must be covered in the amount,
25 duration, scope, and service setting established in the child's
26 individualized family service plan.

27 (d) A health benefit plan prior authorization requirement,

1 or another requirement that a service be authorized, otherwise
2 applicable to a covered rehabilitative or habilitative therapy
3 service or a related service is satisfied if the service is
4 specified in a child's individualized family service plan.

5 (g) Subchapter E, Chapter 1367, Insurance Code, is amended
6 by adding Section 1367.2055 to read as follows:

7 Sec. 1367.2055. MEDICAID PAY PARITY. A health benefit plan
8 issuer shall reimburse a health care provider providing a
9 rehabilitative and habilitative therapy or related service at a
10 rate that is at least equal to the reimbursement rate the health
11 care provider would receive for providing the same or a
12 substantially similar service under Medicaid.

13 (h) Section 1367.206, Insurance Code, is amended to read as
14 follows:

15 Sec. 1367.206. PROHIBITED ACTIONS. Under the coverage
16 required to be provided [~~offered~~] under this subchapter, a health
17 benefit plan issuer may not:

18 (1) apply the cost of rehabilitative and habilitative
19 therapies and related services described by Section 1367.205(a) to
20 an annual or lifetime maximum plan benefit or similar provision
21 under the plan; or

22 (2) use the cost of rehabilitative or habilitative
23 therapies and related services described by Section 1367.205(a) as
24 the sole justification for:

25 (A) increasing plan premiums; or

26 (B) terminating the insured's or enrollee's
27 participation in the plan.

1 (i) Section 1367.207, Insurance Code, is amended to read as
2 follows:

3 Sec. 1367.207. RULES. (a) The commissioner may adopt rules
4 necessary to implement this subchapter.

5 (b) Section 2001.0045, Government Code, does not apply to a
6 rule adopted under this section.

7 (j) Subchapter E, Chapter 1367, Insurance Code, as amended
8 by this section, applies only to a health benefit plan delivered,
9 issued for delivery, or renewed on or after January 1, 2020. A
10 health benefit plan delivered, issued for delivery, or renewed
11 before January 1, 2020, is governed by the law as it existed
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 SECTION 6. (a) The Health and Human Services Commission
15 shall request guidance from the federal Centers for Medicare and
16 Medicaid Services or other appropriate federal agency regarding the
17 feasibility of receiving a waiver or other authorization necessary
18 to provide through Medicaid early childhood intervention services
19 to children who are eligible to receive those services under
20 Chapter 73, Human Resources Code, as amended by this Act, but who
21 are not eligible for Medicaid and do not have private health
22 benefits coverage.

23 (b) As soon as practicable after receiving guidance under
24 Subsection (a) of this section, the Health and Human Services
25 Commission shall prepare a report on how best to provide to children
26 the coverage described by that subsection. The commission shall
27 submit the report to the governor, the lieutenant governor, the

1 speaker of the house of representatives, and the presiding officers
2 of the standing committees of the senate and house of
3 representatives having primary jurisdiction over the early
4 childhood intervention program authorized by Chapter 73, Human
5 Resources Code, as amended by this Act.

6 SECTION 7. (a) As soon as practicable after the effective
7 date of this Act, the Health and Human Services Commission, after
8 consulting with the Texas Education Agency, other appropriate state
9 agencies, and the advisory committee established under Section
10 73.004, Human Resources Code, shall conduct a financial evaluation
11 of the early childhood intervention services provided under Chapter
12 73, Human Resources Code, as amended by this Act, and report on that
13 evaluation. The report must quantify the amount by which providing
14 early childhood intervention services in this state affects other
15 budget strategies, including the budget strategies of school
16 districts, regional education service centers, and other affected
17 governmental entities.

18 (b) Not later than September 1, 2020, the Health and Human
19 Services Commission shall submit the report prepared under
20 Subsection (a) of this section to the governor, the lieutenant
21 governor, the speaker of the house of representatives, and the
22 presiding officers of the standing committees of the senate and
23 house of representatives having primary jurisdiction over the early
24 childhood intervention program authorized by Chapter 73, Human
25 Resources Code, as amended by this Act.

26 SECTION 8. Not later than December 1, 2019, the Health and
27 Human Services Commission shall issue guidance to health benefit

1 plan issuers clarifying that providers of early childhood
2 intervention services under Chapter 73, Human Resources Code, as
3 amended by this Act, must file claims using the national provider
4 identifier number and Texas provider identifier number.

5 SECTION 9. As soon as practicable after the effective date
6 of this Act, but not later than January 1, 2020, the Health and
7 Human Services Commission shall develop and implement the
8 tele-connective pilot program required by Chapter 74, Human
9 Resources Code, as added by this Act.

10 SECTION 10. If before implementing any provision of this
11 Act a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

16 SECTION 11. This Act takes effect September 1, 2019.