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H.B. No. 1576

Substitute the following for H.B. No. 1576:

By: Clardy

C.S.H.B. No. 1576

A BILL TO BE ENTITLED

AN ACT

relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.

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

SECTION 1. Section 531.02414(a), Government Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (3) to read as follows:

(1) "Medical transportation program" means the program that provides nonemergency transportation services ~~[to and from covered health care services, based on medical necessity,~~ to recipients under Medicaid, the children with special health care needs program, and the transportation for indigent cancer patients program, who have no other means of transportation.

(1-a) "Nonemergency transportation service" means a service provided to transport a person to or from medically necessary services covered under a health care program in which the person is enrolled. The term does not include a nonmedical transportation service as defined by Section 531.024142.

(3) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.

SECTION 2. Section 531.02414, Government Code, is amended by amending Subsection (f) and adding Subsections (i), (j), (k), (l), and (m) to read as follows:

(f) Except as provided by Subsection (j), the ~~[The]~~

1 commission shall require compliance with the rules adopted under
2 Subsection (e) in any contract entered into with a regional
3 contracted broker to provide nonemergency transportation services
4 under the medical transportation program.

5 (i) Emergency medical services personnel and emergency
6 medical services vehicles, as those terms are defined by Section
7 773.003, Health and Safety Code, may not provide nonemergency
8 transportation services under the medical transportation program.

9 (j) A regional contracted broker may subcontract with a
10 transportation network company to provide services under this
11 section. A rule or other requirement adopted by the executive
12 commissioner under Subsection (e) does not apply to the
13 subcontracted transportation network company or a motor vehicle
14 operator who is part of the company's network. The commission or
15 the regional contracted broker may not require a motor vehicle
16 operator who is part of the subcontracted transportation network
17 company's network to enroll as a Medicaid provider to provide
18 services under this section.

19 (k) The commission or a regional contracted broker that
20 subcontracts with a transportation network company under
21 Subsection (j) may require the transportation network company or a
22 motor vehicle operator who provides services under this section to
23 be periodically screened against the list of excluded individuals
24 and entities maintained by the Office of Inspector General of the
25 United States Department of Health and Human Services.

26 (l) Notwithstanding any other law, a motor vehicle operator
27 who is part of the network of a transportation network company that

1 subcontracts with a regional contracted broker under Subsection (j)
2 and who satisfies the driver requirements in Section 2402.107,
3 Occupations Code, is qualified to provide services under this
4 section. The commission and the regional contracted broker may not
5 impose any additional requirements on a motor vehicle operator who
6 satisfies the driver requirements in Section 2402.107, Occupations
7 Code, to provide services under this section.

8 (m) For purposes of this section and notwithstanding
9 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
10 operator who provides services under this section may use a
11 wheelchair-accessible vehicle equipped with a lift or ramp that is
12 capable of transporting passengers using a fixed-frame wheelchair
13 in the cabin of the vehicle if the vehicle otherwise meets the
14 requirements of Section 2402.111, Occupations Code.

15 SECTION 3. Subchapter B, Chapter 531, Government Code, is
16 amended by adding Section 531.024142 to read as follows:

17 Sec. 531.024142. NONMEDICAL TRANSPORTATION SERVICES UNDER
18 MEDICAID. (a) In this section:

19 (1) "Managed care organization" means a managed care
20 organization that contracts with the commission to provide health
21 care services to Medicaid recipients under Chapter 533.

22 (2) "Nonmedical transportation service" means:

23 (A) curb-to-curb transportation in a standard
24 passenger vehicle to and from a medically necessary, nonemergency
25 covered health care service of a Medicaid recipient enrolled in a
26 managed care plan that the managed care organization that provides
27 health care services to the recipient determines meets the level of

1 care that is medically appropriate for the recipient and that is
2 scheduled not more than 48 hours before the transportation occurs,
3 including transportation related to:

4 (i) discharge of a recipient from a health
5 care facility;

6 (ii) receipt of urgent care; and

7 (iii) obtaining pharmacy services and
8 prescription drugs; and

9 (B) any other transportation to or from a
10 medically necessary, nonemergency covered health care service the
11 commission considers appropriate to be provided by a transportation
12 vendor, as determined by commission rule or policy.

13 (3) "Transportation network company" has the meaning
14 assigned by Section 2402.001, Occupations Code.

15 (4) "Transportation vendor" means an entity,
16 including a transportation network company, that contracts with a
17 managed care organization to provide nonmedical transportation
18 services.

19 (b) The executive commissioner shall adopt rules regarding
20 the manner in which nonmedical transportation services may be
21 arranged and provided.

22 (c) The rules must require a managed care organization to
23 create a process to:

24 (1) verify that a passenger is eligible to receive
25 nonmedical transportation services;

26 (2) ensure that nonmedical transportation services
27 are provided only to and from covered health care services in areas

1 in which a transportation network company operates;

2 (3) refer a Medicaid recipient enrolled in a managed
3 care plan offered by the managed care organization to the medical
4 transportation program described by Section 531.02414 if:

5 (A) by rule the managed care organization is not
6 responsible for providing transportation services; or

7 (B) the recipient requires an accessible or
8 specialized vehicle that is not available through a transportation
9 vendor; and

10 (4) ensure the timely delivery of nonmedical
11 transportation services to a Medicaid recipient, including by
12 setting reasonable service response goals.

13 (d) A rule adopted in accordance with Subsection (c)(4) may
14 not penalize a managed care organization that contracts with a
15 transportation vendor under this section if the vendor is unable to
16 provide nonmedical transportation services to a Medicaid recipient
17 after the managed care organization has made a specific request for
18 those services.

19 (e) The rules must require a transportation vendor to,
20 before permitting a motor vehicle operator to provide nonmedical
21 transportation services:

22 (1) confirm that the operator:

23 (A) is at least 18 years of age;

24 (B) maintains a valid driver's license issued by
25 this state, another state, or the District of Columbia; and

26 (C) possesses proof of registration and
27 automobile financial responsibility for each motor vehicle to be

1 used to provide nonmedical transportation services;

2 (2) conduct, or cause to be conducted, a local, state,
3 and national criminal background check for the operator that
4 includes the use of:

5 (A) a commercial multistate and
6 multijurisdiction criminal records locator or other similar
7 commercial nationwide database; and

8 (B) the national sex offender public website
9 maintained by the United States Department of Justice or a
10 successor agency;

11 (3) confirm that any vehicle to be used to provide
12 nonmedical transportation services:

13 (A) meets the applicable requirements of Chapter
14 548, Transportation Code; and

15 (B) except as provided by Subsection (j), has at
16 least four doors; and

17 (4) obtain and review the operator's driving record.

18 (f) The rules may not permit a motor vehicle operator to
19 provide nonmedical transportation services if the operator:

20 (1) has been convicted in the three-year period
21 preceding the issue date of the driving record obtained under
22 Subsection (e)(4) of:

23 (A) more than three offenses classified by the
24 Department of Public Safety as moving violations; or

25 (B) one or more of the following offenses:

26 (i) fleeing or attempting to elude a police
27 officer under Section 545.421, Transportation Code;

1 (ii) reckless driving under Section
2 545.401, Transportation Code;

3 (iii) driving without a valid driver's
4 license under Section 521.025, Transportation Code; or

5 (iv) driving with an invalid driver's
6 license under Section 521.457, Transportation Code;

7 (2) has been convicted in the preceding seven-year
8 period of any of the following:

9 (A) driving while intoxicated under Section
10 49.04 or 49.045, Penal Code;

11 (B) use of a motor vehicle to commit a felony;

12 (C) a felony crime involving property damage;

13 (D) fraud;

14 (E) theft;

15 (F) an act of violence; or

16 (G) an act of terrorism; or

17 (3) is found to be registered in the national sex
18 offender public website maintained by the United States Department
19 of Justice or a successor agency.

20 (g) The commission may not require:

21 (1) a motor vehicle operator to enroll as a Medicaid
22 provider to provide nonmedical transportation services; or

23 (2) a managed care organization to credential a motor
24 vehicle operator to provide nonmedical transportation services.

25 (h) The commission or a managed care organization that
26 contracts with a transportation vendor may require the
27 transportation vendor or a motor vehicle operator who provides

1 services under this section to be periodically screened against the
2 list of excluded individuals and entities maintained by the Office
3 of Inspector General of the United States Department of Health and
4 Human Services.

5 (i) Notwithstanding any other law, a motor vehicle operator
6 who is part of a transportation network company's network and who
7 satisfies the driver requirements in Section 2402.107, Occupations
8 Code, is qualified to provide nonmedical transportation services.
9 The commission and a managed care organization may not impose any
10 additional requirements on a motor vehicle operator who satisfies
11 the driver requirements in Section 2402.107, Occupations Code, to
12 provide nonmedical transportation services.

13 (j) For purposes of this section and notwithstanding
14 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
15 operator who provides services under this section may use a
16 wheelchair-accessible vehicle equipped with a lift or ramp that is
17 capable of transporting passengers using a fixed-frame wheelchair
18 in the cabin of the vehicle if the vehicle otherwise meets the
19 requirements of Section 2402.111, Occupations Code.

20 SECTION 4. Section 533.00257(a), Government Code, is
21 amended by adding Subdivision (2-a) to read as follows:

22 (2-a) "Transportation network company" has the
23 meaning assigned by Section 2402.001, Occupations Code.

24 SECTION 5. Section 533.00257, Government Code, is amended
25 by amending Subsections (d) and (g) and adding Subsections (k),
26 (l), (m), and (n) to read as follows:

27 (d) Except as provided by Subsections (k) and (m), a [A]

1 managed transportation organization that participates in the
2 medical transportation program must attempt to contract with
3 medical transportation providers that:

4 (1) are considered significant traditional providers,
5 as defined by rule by the executive commissioner;

6 (2) meet the minimum quality and efficiency measures
7 required under Subsection (g) and other requirements that may be
8 imposed by the managed transportation organization; and

9 (3) agree to accept the prevailing contract rate of
10 the managed transportation organization.

11 (g) Except as provided by Subsections (k) and (m), the [The]
12 commission shall require that managed transportation organizations
13 and providers participating in the medical transportation program
14 meet minimum quality and efficiency measures as determined by the
15 commission.

16 (k) A managed transportation organization may subcontract
17 with a transportation network company to provide services under
18 this section. A rule or other requirement adopted by the executive
19 commissioner under this section or Section 531.02414 does not apply
20 to the subcontracted transportation network company or a motor
21 vehicle operator who is part of the company's network. The
22 commission or the managed transportation organization may not
23 require a motor vehicle operator who is part of the subcontracted
24 transportation network company's network to enroll as a Medicaid
25 provider to provide services under this section.

26 (l) The commission or a managed transportation organization
27 that subcontracts with a transportation network company under

1 Subsection (k) may require the transportation network company or a
2 motor vehicle operator who provides services under this section to
3 be periodically screened against the list of excluded individuals
4 and entities maintained by the Office of Inspector General of the
5 United States Department of Health and Human Services.

6 (m) Notwithstanding any other law, a motor vehicle operator
7 who is part of the network of a transportation network company that
8 subcontracts with a managed transportation organization under
9 Subsection (k) and who satisfies the driver requirements in Section
10 2402.107, Occupations Code, is qualified to provide services under
11 this section. The commission and the managed transportation
12 organization may not impose any additional requirements on a motor
13 vehicle operator who satisfies the driver requirements in Section
14 2402.107, Occupations Code, to provide services under this section.

15 (n) For purposes of this section and notwithstanding
16 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
17 operator who provides services under this section may use a
18 wheelchair-accessible vehicle equipped with a lift or ramp that is
19 capable of transporting passengers using a fixed-frame wheelchair
20 in the cabin of the vehicle if the vehicle otherwise meets the
21 requirements of Section 2402.111, Occupations Code.

22 SECTION 6. Subchapter A, Chapter 533, Government Code, is
23 amended by adding Section 533.00259 to read as follows:

24 Sec. 533.00259. DELIVERY OF NONMEDICAL TRANSPORTATION
25 SERVICES. (a) In this section, "nonmedical transportation
26 service" and "transportation vendor" have the meanings assigned by
27 Section 531.024142.

1 (b) Each managed care organization that contracts with the
2 commission to provide health care services to recipients shall
3 arrange for the provision of nonmedical transportation services. A
4 managed care organization may contract with a transportation vendor
5 or other third party to arrange for the provision of nonmedical
6 transportation services. If a managed care organization contracts
7 with a third party that is not a transportation vendor to arrange
8 for the provision of nonmedical transportation services, the third
9 party shall contract with a transportation vendor to deliver the
10 nonmedical transportation services.

11 (c) A managed care organization that contracts with a
12 transportation vendor or other third party to arrange for the
13 provision of nonmedical transportation services shall ensure the
14 effective sharing and integration of service coordination, service
15 authorization, and utilization management data between the managed
16 care organization and the transportation vendor or third party.

17 (d) A managed care organization may not require:

18 (1) a motor vehicle operator to enroll as a Medicaid
19 provider to provide nonmedical transportation services; or

20 (2) the credentialing of a motor vehicle operator to
21 provide nonmedical transportation services.

22 (e) For purposes of this section and notwithstanding
23 Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle
24 operator who provides services under this section may use a
25 wheelchair-accessible vehicle equipped with a lift or ramp that is
26 capable of transporting passengers using a fixed-frame wheelchair
27 in the cabin of the vehicle if the vehicle otherwise meets the

1 requirements of Section 2402.111, Occupations Code.

2 SECTION 7. As soon as practicable after the effective date
3 of this Act, the executive commissioner of the Health and Human
4 Services Commission shall adopt rules as necessary to implement the
5 changes in law made by this Act.

6 SECTION 8. If before implementing any provision of this Act
7 a state agency determines that a waiver or authorization from a
8 federal agency is necessary for implementation of that provision,
9 the agency affected by the provision shall request the waiver or
10 authorization and may delay implementing that provision until the
11 waiver or authorization is granted.

12 SECTION 9. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2019.