

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

1 makes a request under Subsection (b), the commission shall:

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

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

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

12 (2) except as provided by Subdivision (3), for a child
13 who becomes ineligible for the reason described by Subsection
14 (a)(2), place the child on the interest list for another Section
15 1915(c) waiver program in a position relative to other persons on
16 the list that is based on the date the child was initially placed on
17 the interest list for the medically dependent children (MDCP)
18 waiver program; or

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

27 (d) At the time the commission provides notice to a legally

1 authorized representative that a child is no longer eligible for
2 the medically dependent children (MDCP) waiver program, the
3 commission shall inform the representative in writing about the
4 options under this section for placing the child on an interest
5 list.

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

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

21 SECTION 2. As soon as possible after the effective date of
22 this Act, the Health and Human Services Commission shall identify
23 each child who became ineligible for services under the medically
24 dependent children (MDCP) waiver program on or after July 1, 2016,
25 and before January 1, 2019, based on the child's level of care
26 assessment. The commission shall, on request of the parent or
27 legally authorized representative of an identified child, reassess

1 the child to determine whether the child meets the level of care
2 criteria for medical necessity for nursing facility care required
3 to participate in the medically dependent children (MDCP) waiver
4 program.

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

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

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

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

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