BILL ANALYSIS

H.B. 3761
By: Guillen
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns that certain of the most vulnerable Medicaid recipients may become ineligible for continued Medicaid coverage that they desperately need due to a minor or technical clerical error committed on or with respect to a renewal application or other required document for coverage renewal. H.B. 3761 seeks to assuage those concerns by establishing that certain Medicaid recipients continue to be eligible for Medicaid coverage despite an event or circumstance that would normally result in the recipient being determined ineligible for Medicaid.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3761 repeals a session law provision making the implementation of statutory provisions providing for the continuation of Medicaid coverage for recipients who qualify on the basis of receiving TANF or supplemental security income (SSI) from the federal government, who receive services or reside in an ICF-IID facility, and who experience a temporary increase in income of a duration of one month or less that would result in ineligibility for Medicaid coverage contingent on a specific legislative appropriation for that purpose. The bill amends the Human Resources Code to revise and expand the scope of those provisions to provide for the continuation of coverage for any Medicaid recipient who receives those services or resides in such a facility and who experiences an event or circumstance, including such a temporary increase in income or a minor technical or clerical error committed on or with respect to a document required for benefits renewal that would normally result in the recipient being determined ineligible for Medicaid coverage. The bill specifies that the program through which such an eligible individual receives services is either the home and community-based services (HCS) waiver program or the Texas home living (TxHmL) waiver program.

H.B. 3761 requires a recipient determined ineligible because of an event or circumstance caused wholly by the action or inaction of the recipient or the recipient's parent or guardian to submit an application for Medicaid coverage not later than the 90th day after the date on which the recipient is determined ineligible in order to have their eligibility continued as provided under the bill. The bill prohibits the Health and Human Services Commission (HHSC) from suspending or terminating a recipient's eligibility if the ineligibility is caused partly or wholly by a technical or clerical error committed by HHSC or an HHSC agent. The bill requires HHSC to

coordinate with and inform relevant health care providers if a recipient for whom the bill provides a continuation of benefits is at risk of being determined ineligible for the benefits or is determined ineligible for the benefits and to make reasonable efforts to ensure the benefits are not suspended or terminated.

H.B. 3761 requires HHSC, not later than December 31 of each year, to prepare and submit a report to the legislature regarding the suspension or termination of Medicaid benefits for recipients for whom the bill provides a continuation of benefits that occurred during the preceding state fiscal year. The bill sets out the required contents of the report and requires HHSC to ensure that the initial report includes a description of the number of such recipients who are living in a community-based, residential setting and whose eligibility for benefits was suspended or terminated during each month of the 2016, 2017, 2018, and 2019 state fiscal years.

H.B. 3761 requires HHSC to conduct a review of its policies and processes relating to the renewal of Medicaid benefits for Medicaid recipients who receive services through the HCS or TxHmL waiver programs or reside in an ICF-IID facility. The bill requires HHSC, in conducting the review, to do the following:

- analyze data relating to the number of Medicaid recipients who lost eligibility for Medicaid benefits during each month of the 2016, 2017, 2018, and, 2019 state fiscal years and the reasons for those recipients' loss of eligibility, including because of minor technical or clerical errors made on or with respect to a renewal application or other document required to renew eligibility for the benefits;
- evaluate the impact this temporary loss has on the recipients and providers; and
- identify best practices for HHSC, recipients and their legally authorized representatives, and health care providers to minimize recipients' loss of benefits because of such minor technical or clerical errors or the recipient's failure to provide information necessary to renew eligibility for the benefits.

The bill requires HHSC, based on the findings of the review and in consultation with relevant stakeholders, to develop a plan to implement best practices and address barriers to timely renewal of eligibility for Medicaid benefits and continuation of services for these recipients. The bill sets out the required contents of the plan and requires HHSC to submit the plan to the legislature not later than November 1, 2022. These provisions expire September 1, 2023.

H.B. 3761 repeals Section 3, Chapter 1072 (H.B. 3292), Acts of the 85th Legislature, Regular Session, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.