

By: Oliverson

H.B. No. 2981

A BILL TO BE ENTITLED

AN ACT

relating to establishment of the prescription drug savings program for certain uninsured individuals.

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

SECTION 1. This Act shall be known as the "Texas Cares Act."

SECTION 2. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 65 to read as follows:

CHAPTER 65. PRESCRIPTION DRUG SAVINGS PROGRAM FOR CERTAIN

UNINSURED INDIVIDUALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 65.001. DEFINITIONS. In this chapter:

(1) "Account" means the Texas cares account established under Section 65.101.

(2) "Enrollee" means an individual enrolled in the program.

(3) "Pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with prescription drug discounts provided under the program.

(4) "Program" means the prescription drug savings program established under this chapter.

(5) "Uninsured individual" means an individual without health benefit plan coverage for a prescription drug benefit.

1       Sec. 65.002. CONSTRUCTION OF CHAPTER; PURPOSE. (a) This  
2 chapter does not establish an entitlement to assistance in  
3 obtaining benefits for uninsured individuals.

4       (b) The purpose of this chapter is to make this state's risk  
5 pool whole by providing services to uninsured individuals without  
6 access to prescription drug benefits.

7       Sec. 65.003. CONFLICT WITH FEDERAL LAW; REPORT. (a) The  
8 executive commissioner shall monitor federal law affecting the  
9 administration or facilitation of a prescription drug savings  
10 program.

11       (b) If the executive commissioner determines that a federal  
12 law, rule, or regulation conflicts with this chapter, the executive  
13 commissioner shall provide a written report of the conflict to the  
14 governor, lieutenant governor, and speaker of the house of  
15 representatives. The report must include recommendations for  
16 legislation necessary to comply with federal law or recommendations  
17 for dissolution of a program established by this chapter that is  
18 duplicative of federal law.

19       Sec. 65.004. RULES. (a) Except as provided by Subsection  
20 (b), the executive commissioner shall adopt rules as necessary to  
21 implement this chapter.

22       (b) The executive commissioner may delegate rulemaking to  
23 another state agency with that agency's approval. If the executive  
24 commissioner delegates rulemaking under this subsection, the  
25 executive commissioner must approve the proposed rules of the  
26 delegated agency before the delegated agency adopts the rules.

1 SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION

2 DRUG SAVINGS PROGRAM

3 Sec. 65.051. ESTABLISHMENT OF PROGRAM. (a) The commission  
4 shall develop and design a prescription drug savings program that  
5 partners with a pharmacy benefit manager to make prescription drugs  
6 available at a discounted rate to uninsured individuals.

7 (b) In developing and implementing the program, the  
8 commission shall ensure that program benefits do not include  
9 prescription drugs to be used for the elective termination of a  
10 pregnancy.

11 (c) The executive commissioner shall ensure that the  
12 program is designed in a manner that provides the greatest possible  
13 value to the uninsured individuals it serves, with considerations  
14 given to the adequacy of the prescription drug formulary, costs of  
15 drugs, cost to the state, and other important factors.

16 Sec. 65.052. GENERAL DUTIES OF COMMISSION RELATED TO  
17 PROGRAM. (a) The commission shall oversee the implementation of  
18 the program and coordinate the activities of each state agency  
19 necessary for the implementation of the program, including the  
20 Texas Department of Insurance.

21 (b) The commission shall maximize the use of private  
22 resources in administering the program.

23 (c) The commission shall ensure that money spent  
24 administering the program does not exceed a limit on program  
25 expenditures imposed by the legislature.

26 (d) The commission shall develop a method to accept  
27 applications for participation in the program, including a process

1 to:

2 (1) determine eligibility, screening, and enrollment  
3 procedures; and

4 (2) resolve disputes related to eligibility  
5 determinations.

6 Sec. 65.053. TEXAS DEPARTMENT OF INSURANCE DUTIES. At the  
7 request of the commission, the Texas Department of Insurance shall  
8 provide any necessary assistance with the development of the  
9 program. The Texas Department of Insurance shall monitor the  
10 quality of the services provided by a pharmacy benefit manager and  
11 resolve disputes relating to those services.

12 Sec. 65.054. PHARMACY BENEFIT MANAGER CONTRACT AND  
13 REQUIREMENTS. (a) The commission shall enter into a contract with  
14 a pharmacy benefit manager to provide enrollment and related  
15 services throughout this state under the program.

16 (b) The commission shall monitor, through reporting  
17 requirements or other means, the contracted pharmacy benefit  
18 manager to ensure performance under the contract and quality  
19 delivery of services.

20 (c) The commission shall provide payments under a contract  
21 entered into under this section to the contracted pharmacy benefit  
22 manager.

23 (d) A pharmacy benefit manager must hold a certificate of  
24 authority or other appropriate license issued by the Texas  
25 Department of Insurance that authorizes the pharmacy benefit  
26 manager to provide the type of coverage related to the services  
27 provided under the program.

1       (e) A pharmacy benefit manager that provides health care  
2 services under the program must satisfy certification and licensure  
3 requirements prescribed by the commission and consistent with law.

4       Sec. 65.055. CONTRACT ADMINISTRATION. (a) The commission  
5 may contract with a third-party administrator or other entity to  
6 administer the program for the commission under this chapter.

7       (b) A third-party administrator or other entity may perform  
8 tasks under a contract entered into under Subsection (a) that would  
9 otherwise be performed by the commission.

10       (c) The commission may not delegate decisions about the  
11 policies of the program to a third party administrator or other  
12 entity.

13       Sec. 65.056. CONTRACT OVERSIGHT. (a) The commission shall  
14 conduct a review of each entity that enters into a contract under  
15 this subchapter to ensure the entity is available, prepared, and  
16 able to fulfill the entity's obligations under the contract in  
17 compliance with the contract, this chapter, and rules adopted under  
18 this chapter.

19       (b) The commission's review of contractors under Subsection  
20 (a) must be based on the following criteria:

21               (1) adequate and appropriate staffing, including  
22 contracts with third parties;

23               (2) adequate and properly documented policies and  
24 procedures;

25               (3) fiscal soundness; and

26               (4) adequate information systems, electronic  
27 interfaces, and business practices.

1       (c) The commission shall ensure that each contract entered  
2 into under this subchapter is procured using a competitive  
3 procurement process in compliance with all applicable federal and  
4 state laws, rules, and regulations.

5       Sec. 65.057. COMMUNITY OUTREACH CAMPAIGN. The commission  
6 shall conduct a community outreach and education campaign in the  
7 form and manner determined by the commission to provide information  
8 relating to the availability of the program.

9       SUBCHAPTER C. TEXAS CARES ACCOUNT; PROGRAM TERMINATION

10       Sec. 65.101. ESTABLISHMENT OF TEXAS CARES ACCOUNT. (a)  
11 The Texas cares account is a dedicated account in the general  
12 revenue fund.

13       (b) The account consists of:

14               (1) gifts, grants, and donations received for the  
15 account;

16               (2) legislative appropriations;

17               (3) federal money available to be used for this  
18 purpose; and

19               (4) interest, dividends, and other income of the  
20 account.

21       (c) Section 403.0956, Government Code, does not apply to the  
22 account.

23       (d) Money in the account may be appropriated only for the  
24 administration of the program and the provision of program  
25 services.

26       (e) The commission may solicit and accept gifts, grants, and  
27 donations for the account.

1       Sec. 65.102. TERMINATION OF PROGRAM. The commission may  
2 terminate the program if the commission determines the account  
3 under Section 65.101 lacks sufficient funding to administer the  
4 program.

5       SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

6       Sec. 65.151. ELIGIBILITY CRITERIA. (a) Except as provided  
7 by Subsection (b), an individual is eligible for benefits under the  
8 program if the individual:

9           (1) is a resident of this state;

10          (2) is a citizen of the United States; and

11          (3) is uninsured, as determined by the commission.

12       (b) If the commission determines necessary, the commission  
13 may consider an applicant's financial vulnerability as an  
14 additional factor for determining program eligibility.

15       (c) The executive commissioner by rule shall establish  
16 eligibility levels consistent with any other applicable federal and  
17 state laws, rules, and regulations.

18       Sec. 65.152. COST SHARING. To the extent necessary, the  
19 commission shall require enrollees to share the cost of the  
20 program, including provisions requiring enrollees to pay a  
21 copayment at the point of service.

22       SUBCHAPTER E. OPERATION OF PROGRAM

23       Sec. 65.201. PROGRAM BENEFITS. (a) The commission may use  
24 money appropriated to the program in accordance with the General  
25 Appropriations Act and in the account to finance benefits for  
26 enrollees.

27       (b) The commission must approve program benefits offered

1 under this chapter. The commission shall ensure that the benefits  
2 comply with all applicable federal and state laws, rules, and  
3 regulations.

4 Sec. 65.202. REPORTING. (a) A third-party administrator  
5 or other entity the commission contracts with under Section 65.055  
6 shall report to the commission in the form and manner prescribed by  
7 the commission on the benefits and services provided under the  
8 program.

9 (b) The commission shall establish a procedure to monitor  
10 the provision of benefits and services under this chapter.

11 Sec. 65.203. FRAUD PREVENTION. The executive commissioner  
12 shall develop and implement rules for the prevention and detection  
13 of fraud in the program.

14 SECTION 3. (a) In this section, "commission" means the  
15 Health and Human Services Commission.

16 (b) The commission shall conduct a study on the development  
17 and implementation of the prescription drug savings program  
18 established by Chapter 65, Health and Safety Code, as added by this  
19 Act. The commission shall determine the effectiveness of the  
20 program in providing services to uninsured individuals in this  
21 state and any legislative recommendations for improvements to the  
22 program.

23 (c) Not later than October 16, 2022, the commission shall  
24 provide a written report of the results of the study conducted under  
25 Subsection (b) of this section to the governor, lieutenant  
26 governor, speaker of the house of representatives, and members of  
27 the standing committees of the legislature with primary



1 jurisdiction over the commission.

2           SECTION 4. As soon as practicable after the effective date  
3 of this Act, the executive commissioner of the Health and Human  
4 Services Commission and any other state agency designated by the  
5 executive commissioner shall adopt rules necessary to implement  
6 Chapter 65, Health and Safety Code, as added by this Act.

7           SECTION 5. This Act takes effect September 1, 2021.