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H.B. No. 3720

A BILL TO BE ENTITLED

AN ACT

relating to interest lists and eligibility criteria for certain  
Medicaid 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 531.06011 and 531.06035 to read as  
follows:

Sec. 531.06011. CERTAIN MEDICAID WAIVER PROGRAMS: INTEREST  
LIST MANAGEMENT. (a) This section applies only with respect to the  
following waiver programs:

(1) the community living assistance and support  
services (CLASS) waiver program;

(2) the home and community-based services (HCS) waiver  
program;

(3) the deaf-blind with multiple disabilities (DBMD)  
waiver program;

(4) the Texas home living (TxHmL) waiver program;

(5) the medically dependent children (MDCP) waiver  
program; and

(6) the STAR+PLUS home and community-based services  
(HCBS) program.

(b) The commission, in consultation with the Intellectual  
and Developmental Disability System Redesign Advisory Committee  
established under Section 534.053, the state Medicaid managed care

1 advisory committee, and interested stakeholders, shall develop a  
2 questionnaire to be completed by or on behalf of an individual who  
3 requests to be placed on or is currently on an interest list for a  
4 waiver program.

5 (c) The questionnaire developed under Subsection (b) must,  
6 at a minimum, request the following information about an individual  
7 seeking or receiving services under a waiver program:

8 (1) contact information for the individual or the  
9 individual's parent or other legally authorized representative;

10 (2) the individual's general demographic information;

11 (3) the individual's living arrangement;

12 (4) the types of assistance the individual requires;

13 (5) the individual's current caregiver supports and  
14 circumstances that may cause the individual to lose those supports;

15 and

16 (6) when the delivery of services under a waiver  
17 program should begin to ensure the individual's health and welfare  
18 and that the individual receives services and supports in the least  
19 restrictive setting possible.

20 (d) Subject to the availability of funds, the commission  
21 shall require all individuals on an interest list to annually  
22 update the questionnaire developed under Subsection (b).

23 (e) If the commission determines that it is feasible, the  
24 commission shall develop an online portal to allow an individual or  
25 an individual's parent or other legally authorized representative  
26 to:

27 (1) request placement on a waiver program interest

1 list; and

2 (2) complete and update the questionnaire developed  
3 under Subsection (b).

4 (f) If an individual is on a waiver program's interest list  
5 and the individual or the individual's parent or other legally  
6 authorized representative does not respond to a written or verbal  
7 request made by the commission to update information concerning the  
8 individual or otherwise fails to maintain contact with the  
9 commission, the commission:

10 (1) shall designate the individual's status on the  
11 interest list as inactive until the individual or the individual's  
12 parent or other legally authorized representative notifies the  
13 commission that the individual is still interested in receiving  
14 services under the waiver program; and

15 (2) at the time the individual or the individual's  
16 parent or other legally authorized representative provides notice  
17 to the commission under Subdivision (1), shall designate the  
18 individual's status on the interest list as active and restore the  
19 individual to the position on the list that corresponds with the  
20 date the individual was initially placed on the list.

21 (g) The commission's designation of an individual's status  
22 on an interest list as inactive under Subsection (f) may not result  
23 in the removal of the individual from that list or any other waiver  
24 program interest list.

25 (h) Not later than September 1 of each year, the commission  
26 shall provide to the Intellectual and Developmental Disability  
27 System Redesign Advisory Committee established under Section

1 534.053, or, if that advisory committee is abolished, an  
2 appropriate stakeholder advisory committee, as determined by the  
3 executive commissioner, the number of individuals, including  
4 individuals whose status is designated as inactive by the  
5 commission, who are on an interest list to receive services under a  
6 waiver program.

7 Sec. 531.06035. MEDICALLY DEPENDENT CHILDREN WAIVER  
8 PROGRAM (MDCP) INTEREST LIST; MEDICAL NECESSITY ASSESSMENT  
9 REQUIRED. (a) This section applies only to a child who receives  
10 Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et  
11 seq.).

12 (b) If a child's parent or other legally authorized  
13 representative expresses interest in placing the child on the  
14 interest list for the medically dependent children (MDCP) waiver  
15 program, the commission shall conduct a medical necessity  
16 assessment of the child to ensure the child is eligible for services  
17 before placing the child on the program's interest list.

18 SECTION 2. Subchapter B, Chapter 32, Human Resources Code,  
19 is amended by adding Section 32.0521 to read as follows:

20 Sec. 32.0521. ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL)  
21 WAIVER PROGRAM. (a) In this section:

22 (1) "Related condition" means, consistent with 42  
23 C.F.R. Section 435.1010, a severe and chronic disability that:

24 (A) is attributed to:

25 (i) cerebral palsy or epilepsy; or

26 (ii) any other condition, other than mental  
27 illness, found to be closely related to intellectual disability

1 because the condition results in impairment of general intellectual  
2 functioning or adaptive behavior similar to that of individuals  
3 with intellectual disability, and requires treatment or services  
4 similar to those required for individuals with intellectual  
5 disability;

6 (B) is manifested before the individual reaches  
7 22 years of age;

8 (C) is likely to continue indefinitely; and

9 (D) results in substantial functional limitation  
10 in at least three of the following areas of major life activity:

11 (i) self-care;

12 (ii) understanding and use of language;

13 (iii) learning;

14 (iv) mobility;

15 (v) self-direction; and

16 (vi) capacity for independent living.

17 (2) "Section 1915(c) waiver program" has the meaning  
18 assigned by Section 531.001, Government Code.

19 (b) To the extent allowed by federal law, an individual is  
20 financially eligible to participate in the Texas home living  
21 (TxHmL) waiver program if the individual's income is not more than  
22 the special income limit established by the commission for other  
23 Section 1915(c) waiver programs, including the home and  
24 community-based services (HCS) waiver program.

25 (c) To the extent permitted by federal law, the commission  
26 shall expand medical eligibility criteria under the Texas home  
27 living (TxHmL) waiver program to ensure that an individual is

1 medically eligible to participate in the waiver program if the  
2 individual:

3 (1) has a primary diagnosis by a licensed physician of  
4 a related condition that is included on the list of diagnostic codes  
5 for persons with related conditions that are approved by the  
6 commission; and

7 (2) has moderate to extreme deficits in adaptive  
8 behavior, as determined by commission rule, obtained by  
9 administering a standardized assessment of adaptive behavior.

10 SECTION 3. As soon as practicable after the effective date  
11 of this Act, the Health and Human Services Commission shall:

12 (1) develop the questionnaire required by Section  
13 531.06011(b), Government Code, as added by this Act, and, subject  
14 to the availability of funds, implement Subsection (d) of that  
15 section not later than September 1, 2024;

16 (2) determine the feasibility of developing an online  
17 portal under Section 531.06011(e), Government Code, as added by  
18 this Act, and if feasible, develop and implement the online portal;  
19 and

20 (3) as appropriate, conduct a medical necessity  
21 assessment of each child who is on the interest list for the  
22 medically dependent children (MDCP) waiver program on the effective  
23 date of this Act to ensure the child's eligibility for program  
24 services.

25 SECTION 4. If before implementing any provision of this Act  
26 a state agency determines that a waiver or authorization from a  
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or  
2 authorization and may delay implementing that provision until the  
3 waiver or authorization is granted.

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