

By: Guillen

H.B. No. 3761

A BILL TO BE ENTITLED

AN ACT

relating to the continuation of medical assistance for certain individuals.

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

SECTION 1. Section 32.0256, Human Resources Code, is amended to read as follows:

Sec. 32.0256. CONTINUATION OF MEDICAL ASSISTANCE FOR CERTAIN INDIVIDUALS; ANNUAL REPORT. (a) A recipient [~~described by Section 32.025(a)~~] who experiences an event or circumstance, including a temporary increase in income of a duration of one month or less or a minor technical or clerical error committed on or with respect to the recipient's renewal application or other document required for benefits renewal, that would normally result in the recipient being determined ineligible for medical assistance continues to be eligible for that assistance if the individual:

(1) either:

(A) receives services through one of the following programs that serve [a program for] individuals with an intellectual or developmental disability [authorized] under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)):

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

(ii) the Texas home living (TxHmL) waiver program; or

1 (B) resides in an ICF-IID facility; and

2 (2) continues to meet the functional and diagnostic
3 criteria for the receipt of services under a program described by
4 Subdivision (1)(A) or for residency in an ICF-IID facility.

5 (b) To continue to be eligible for medical assistance, a
6 recipient described by Subsection (a) who is determined ineligible
7 for medical assistance because of an event or circumstance caused
8 wholly by the action or inaction of the recipient or the recipient's
9 parent or guardian must submit an application for medical
10 assistance in accordance with Section 32.025(b) not later than the
11 90th day after the date on which the recipient is determined
12 ineligible.

13 (c) The commission may not suspend or terminate the
14 eligibility of a recipient for medical assistance benefits if the
15 recipient's ineligibility is caused partly or wholly by a technical
16 or clerical error committed by the commission or an agent of the
17 commission.

18 (d) The commission shall:

19 (1) coordinate with and inform relevant health care
20 providers if a recipient described by Subsection (a) is at risk of
21 being determined ineligible for medical assistance benefits or is
22 determined ineligible for those benefits; and

23 (2) make reasonable efforts to ensure the medical
24 assistance benefits of a recipient described by Subsection (a) are
25 not suspended or terminated.

26 (e) Not later than December 31 of each year, the commission
27 shall prepare and submit a report to the legislature regarding the

1 suspension or termination of medical assistance benefits of
2 recipients described by Subsection (a) that occurred during the
3 preceding state fiscal year. The report must include:

4 (1) the number of recipients who are living in a
5 community-based, residential setting whose eligibility for
6 benefits was suspended or terminated during each month of the
7 fiscal year;

8 (2) if the commission reinstated the benefits of a
9 recipient, the average, median, shortest, and longest length of
10 time the commission took to reinstate those benefits;

11 (3) the number of recipients whose benefits were not
12 reinstated by the commission;

13 (4) the specific reason for the suspension or
14 termination of benefits of a recipient, including an analysis of
15 the percentage of suspensions or terminations related to:

16 (A) an increase in the recipient's income;

17 (B) a failure by the recipient or the recipient's
18 parent or guardian to properly submit a renewal application or
19 other document required for benefits renewal;

20 (C) a change in the recipient's condition that
21 results in the recipient no longer meeting the functional or
22 diagnostic criteria necessary to establish the recipient's
23 eligibility for services under a program described by Subsection
24 (a)(1)(A) or for residency in an ICF-IID facility;

25 (D) a technical or clerical error committed by
26 the commission or an agent of the commission; and

27 (E) any other reason that occurs with enough

1 frequency to warrant its inclusion in the analysis, as determined
2 by the commission; and

3 (5) a statement of the amount of retroactive
4 reimbursements paid to health care providers for the provision of
5 services to a recipient during the time the recipient's eligibility
6 for benefits was suspended or terminated.

7 SECTION 2. Section 3, Chapter 1072 (H.B. 3292), Acts of the
8 85th Legislature, Regular Session, 2017, is repealed.

9 SECTION 3. Notwithstanding Section 32.0256(e), Human
10 Resources Code, as added by this Act, the Health and Human Services
11 Commission shall ensure that the initial report required under that
12 subsection includes a description of the number of recipients
13 described by Section 32.0256(a), Human Resources Code, as amended
14 by this Act, who are living in a community-based, residential
15 setting and whose eligibility for benefits was suspended or
16 terminated during each month of the state fiscal years ending
17 August 31, 2016, August 31, 2017, August 31, 2018, and August 31,
18 2019.

19 SECTION 4. (a) As soon as practicable after the effective
20 date of this Act, the Health and Human Services Commission shall
21 conduct a review of the commission's policies and processes
22 relating to the renewal of Medicaid benefits for the following
23 Medicaid recipients:

24 (1) persons receiving services through one of the
25 following Medicaid programs authorized under Section 1915(c) of the
26 federal Social Security Act (42 U.S.C. Section 1396n(c)) that
27 provide services to persons with an intellectual or developmental

1 disability:

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

4 (B) the Texas home living (TxHmL) waiver program;
5 and

6 (2) persons residing in an ICF-IID facility.

7 (b) In conducting the review under this section, the Health
8 and Human Services Commission shall:

9 (1) analyze existing data relating to:

10 (A) the number of Medicaid recipients who lost
11 eligibility for Medicaid benefits during each month of the state
12 fiscal years ending August 31, 2016, August 31, 2017, August 31,
13 2018, and August 31, 2019; and

14 (B) the reasons for those recipients' loss of
15 eligibility, including because of minor technical or clerical
16 errors made on or with respect to a renewal application or other
17 document required to renew eligibility for the benefits;

18 (2) evaluate the impact recipients' temporary loss of
19 benefits has on the recipients and health care providers; and

20 (3) identify best practices for the commission,
21 recipients and their legally authorized representatives, and
22 health care providers to minimize recipients' loss of eligibility
23 for the benefits because of:

24 (A) minor technical or clerical errors made on or
25 with respect to a renewal application or other document required to
26 renew eligibility for the benefits; or

27 (B) the recipient's failure to provide

1 information necessary to renew eligibility for the benefits.

2 (c) Based on the findings of the review conducted under this
3 section, the Health and Human Services Commission shall, in
4 consultation with relevant stakeholders, develop a plan to
5 implement best practices and address barriers to timely renewal of
6 eligibility for Medicaid benefits and continuation of services for
7 Medicaid recipients described by Subsection (a) of this section.
8 The plan must specifically identify best practices for avoiding
9 loss of eligibility for Medicaid benefits by those recipients
10 because of minor technical or clerical errors made on or with
11 respect to a renewal application or other document required to
12 renew eligibility for the benefits.

13 (d) Not later than November 1, 2022, the Health and Human
14 Services Commission shall submit to the legislature the plan
15 developed under Subsection (c) of this section. The plan must
16 include:

17 (1) a summary of issues identified by the commission's
18 review of policies and processes under this section;

19 (2) a timeline for the commission's implementation of
20 the best practices identified for implementation in the review; and

21 (3) recommendations for potential legislation if the
22 commission determines that changes in statute are required to
23 address issues identified in the review.

24 (e) This section expires September 1, 2023.

25 SECTION 5. 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 6. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2021.