

1-1 By: Kolkhorst S.B. No. 2028
 1-2 (In the Senate - Filed March 12, 2021; April 1, 2021, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 29, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 29, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2028 By: Buckingham

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the Medicaid program, including the administration and
 1-22 operation of the Medicaid managed care program.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter B, Chapter 531, Government Code, is
 1-25 amended by adding Sections 531.024142, 531.02493, 531.0501,
 1-26 531.0512, and 531.0605 to read as follows:

1-27 Sec. 531.024142. NONHOSPITAL AMBULANCE TRANSPORT AND
 1-28 TREATMENT PROGRAM. (a) The commission by rule shall develop and
 1-29 implement a program designed to improve quality of care and lower
 1-30 costs in Medicaid by:

1-31 (1) reducing avoidable transports to hospital
 1-32 emergency departments and unnecessary hospitalizations;

1-33 (2) encouraging transports to alternative care
 1-34 settings for appropriate care; and

1-35 (3) providing greater flexibility to ambulance care
 1-36 providers to address the emergency health care needs of Medicaid
 1-37 recipients following a 9-1-1 emergency services call.

1-38 (b) The program must be substantially similar to the Centers
 1-39 for Medicare and Medicaid Services' Emergency Triage, Treat, and
 1-40 Transport (ET3) model.

1-41 Sec. 531.02493. CERTIFIED NURSE AIDE PROGRAM. (a) The
 1-42 commission shall study:

1-43 (1) the cost-effectiveness of providing, as a Medicaid
 1-44 benefit through a certified nurse aide trained in the Grand-Aide
 1-45 curriculum or a substantially similar training program, in-home
 1-46 support to a Medicaid recipient's care team after the recipient's
 1-47 discharge from a hospital; and

1-48 (2) the feasibility of allowing a Medicaid managed
 1-49 care organization to treat payments to certified nurse aides
 1-50 providing care as described by Subdivision (1) as quality
 1-51 improvement costs.

1-52 (b) Not later than December 1, 2022, the commission shall
 1-53 prepare and submit a report to the governor and the legislature that
 1-54 summarizes the commission's findings and conclusions from the
 1-55 study.

1-56 (c) This section expires September 1, 2023.

1-57 Sec. 531.0501. MEDICAID WAIVER PROGRAMS: INTEREST LIST
 1-58 MANAGEMENT. (a) The commission, in consultation with the
 1-59 Intellectual and Developmental Disability System Redesign Advisory
 1-60 Committee established under Section 534.053 and the STAR Kids

2-1 Managed Care Advisory Committee, shall study the feasibility of
2-2 creating an online portal for individuals to request to be placed
2-3 and check the individual's placement on a Medicaid waiver program
2-4 interest list. As part of the study, the commission shall determine
2-5 the most cost-effective automated method for determining the level
2-6 of need of an individual seeking services through a Medicaid waiver
2-7 program.

2-8 (b) Not later than January 1, 2023, the commission shall
2-9 prepare and submit a report to the governor, the lieutenant
2-10 governor, the speaker of the house of representatives, and the
2-11 standing legislative committees with primary jurisdiction over
2-12 health and human services that summarizes the commission's findings
2-13 and conclusions from the study.

2-14 (c) Subsections (a) and (b) and this subsection expire
2-15 September 1, 2023.

2-16 (d) The commission shall develop a protocol in the office of
2-17 the ombudsman to improve the capture and updating of contact
2-18 information for an individual who contacts the office of the
2-19 ombudsman regarding Medicaid waiver programs or services.

2-20 Sec. 531.0512. NOTIFICATION REGARDING CONSUMER DIRECTION
2-21 MODEL. The commission shall:

2-22 (1) develop a procedure to:

2-23 (A) verify that a Medicaid recipient or the
2-24 recipient's parent or legal guardian is informed regarding the
2-25 consumer direction model and provided the option to choose to
2-26 receive care under that model; and

2-27 (B) if the individual declines to receive care
2-28 under the consumer direction model, document the declination; and

2-29 (2) ensure that each Medicaid managed care
2-30 organization implements the procedure.

2-31 Sec. 531.0605. ADVANCING CARE FOR EXCEPTIONAL KIDS PILOT
2-32 PROGRAM. (a) The commission shall collaborate with Medicaid
2-33 managed care organizations and the STAR Kids Managed Care Advisory
2-34 Committee to develop and implement a pilot program that is
2-35 substantially similar to the program described by Section 3,
2-36 Medicaid Services Investment and Accountability Act of 2019 (Pub.
2-37 L. No. 116-16), to provide coordinated care through a health home
2-38 to children with complex medical conditions.

2-39 (b) The commission shall seek guidance from the Centers for
2-40 Medicare and Medicaid Services and the United States Department of
2-41 Health and Human Services regarding the design of the program and,
2-42 based on the guidance, may actively seek and apply for federal
2-43 funding to implement the program.

2-44 (c) Not later than December 31, 2024, the commission shall
2-45 prepare and submit a report to the legislature that includes:

2-46 (1) a summary of the commission's implementation of
2-47 the pilot program; and

2-48 (2) if the pilot program has been operating for a
2-49 period sufficient to obtain necessary data, a summary of the
2-50 commission's evaluation of the effect of the pilot program on the
2-51 coordination of care for children with complex medical conditions
2-52 and a recommendation as to whether the pilot program should be
2-53 continued, expanded, or terminated.

2-54 (d) The pilot program terminates and this section expires
2-55 September 1, 2025.

2-56 SECTION 2. Section 533.00251, Government Code, is amended
2-57 by adding Subsection (h) to read as follows:

2-58 (h) In addition to the minimum performance standards the
2-59 commission establishes for nursing facility providers seeking to
2-60 participate in the STAR+PLUS Medicaid managed care program, the
2-61 executive commissioner shall adopt rules establishing minimum
2-62 performance standards applicable to nursing facility providers
2-63 that participate in the program. The commission is responsible for
2-64 monitoring provider performance in accordance with the standards
2-65 and requiring corrective actions, as the commission determines
2-66 necessary, from providers that do not meet the standards. The
2-67 commission shall share data regarding the requirements of this
2-68 subsection with STAR+PLUS Medicaid managed care organizations as
2-69 appropriate.

3-1 SECTION 3. Subchapter A, Chapter 533, Government Code, is
3-2 amended by adding Section 533.00515 to read as follows:

3-3 Sec. 533.00515. MEDICATION THERAPY MANAGEMENT. The
3-4 executive commissioner shall collaborate with Medicaid managed
3-5 care organizations to implement medication therapy management
3-6 services to lower costs and improve quality outcomes for recipients
3-7 by reducing adverse drug events.

3-8 SECTION 4. Section 533.009(c), Government Code, is amended
3-9 to read as follows:

3-10 (c) The executive commissioner, by rule, shall prescribe
3-11 the minimum requirements that a managed care organization, in
3-12 providing a disease management program, must meet to be eligible to
3-13 receive a contract under this section. The managed care
3-14 organization must, at a minimum, be required to:

3-15 (1) provide disease management services that have
3-16 performance measures for particular diseases that are comparable to
3-17 the relevant performance measures applicable to a provider of
3-18 disease management services under Section 32.057, Human Resources
3-19 Code; ~~and~~

3-20 (2) show evidence of ability to manage complex
3-21 diseases in the Medicaid population; and

3-22 (3) if a disease management program provided by the
3-23 organization has low active participation rates, identify the
3-24 reason for the low rates and develop an approach to increase active
3-25 participation in disease management programs for high-risk
3-26 recipients.

3-27 SECTION 5. Section 32.028, Human Resources Code, is amended
3-28 by adding Subsection (p) to read as follows:

3-29 (p) The executive commissioner shall establish a
3-30 reimbursement rate for medication therapy management services.

3-31 SECTION 6. Section 32.054, Human Resources Code, is amended
3-32 by adding Subsection (f) to read as follows:

3-33 (f) To prevent serious medical conditions and reduce
3-34 emergency room visits necessitated by complications resulting from
3-35 a lack of access to dental care, the commission shall provide
3-36 medical assistance reimbursement for preventive dental services,
3-37 including reimbursement for at least one preventive dental care
3-38 visit per year, for an adult recipient with a disability who is
3-39 enrolled in the STAR+PLUS Medicaid managed care program. This
3-40 subsection does not apply to an adult recipient who is enrolled in
3-41 the STAR+PLUS home and community-based services (HCBS) waiver
3-42 program. This subsection may not be construed to reduce dental
3-43 services available to persons with disabilities that are otherwise
3-44 reimbursable under the medical assistance program.

3-45 SECTION 7. Subchapter B, Chapter 32, Human Resources Code,
3-46 is amended by adding Sections 32.0317 and 32.0611 to read as
3-47 follows:

3-48 Sec. 32.0317. REIMBURSEMENT FOR SERVICES PROVIDED UNDER
3-49 SCHOOL HEALTH AND RELATED SERVICES PROGRAM. The executive
3-50 commissioner shall adopt rules requiring parental consent for
3-51 services provided under the school health and related services
3-52 program in order for a school district to receive reimbursement for
3-53 the services. The rules must allow a school district to seek a
3-54 waiver to receive reimbursement for services provided to a student
3-55 who does not have a parent or legal guardian who can provide
3-56 consent.

3-57 Sec. 32.0611. COMMUNITY ATTENDANT SERVICES: QUALITY
3-58 INITIATIVES AND EDUCATION INCENTIVES. (a) The commission shall
3-59 develop specific quality initiatives for attendants providing
3-60 community attendant services to improve quality outcomes for
3-61 recipients.

3-62 (b) The commission shall coordinate with the Texas Higher
3-63 Education Coordinating Board and the Texas Workforce Commission to
3-64 develop a program to facilitate the award of academic or workforce
3-65 education credit for programs of study or courses of instruction
3-66 leading to a degree, certificate, or credential in a health-related
3-67 field based on an attendant's work experience providing community
3-68 attendant services.

3-69 SECTION 8. (a) In this section, "commission," "executive

4-1 commissioner," and "Medicaid" have the meanings assigned by Section
4-2 531.001, Government Code.

4-3 (b) Using existing resources, the commission shall:

4-4 (1) review the commission's staff rate enhancement
4-5 programs to:

4-6 (A) identify and evaluate methods for improving
4-7 administration of those programs to reduce administrative barriers
4-8 that prevent an increase in direct care staffing and direct care
4-9 wages and benefits in nursing homes; and

4-10 (B) develop recommendations for increasing
4-11 participation in the programs;

4-12 (2) revise the commission's policies regarding the
4-13 quality incentive payment program (QIPP) to require improvements to
4-14 staff-to-patient ratios in nursing facilities participating in the
4-15 program by January 1, 2023;

4-16 (3) examine, in collaboration with the Department of
4-17 Family and Protective Services, implementation in other states of
4-18 the Centers for Medicare and Medicaid Services' Integrated Care for
4-19 Kids (InCK) Model to determine whether implementing the model could
4-20 benefit children in this state, including children enrolled in the
4-21 STAR Health Medicaid managed care program; and

4-22 (4) identify factors influencing active participation
4-23 by Medicaid recipients in disease management programs by examining
4-24 variations in:

4-25 (A) eligibility criteria for the programs; and

4-26 (B) participation rates by health plan, disease
4-27 management program, and year.

4-28 (c) The executive commissioner may approve a capitation
4-29 payment system that provides for reimbursement for physicians under
4-30 a primary care capitation model or total care capitation model.

4-31 SECTION 9. (a) In this section, "commission" and
4-32 "Medicaid" have the meanings assigned by Section 531.001,
4-33 Government Code.

4-34 (b) As soon as practicable after the effective date of this
4-35 Act, the commission shall conduct a study to determine the
4-36 cost-effectiveness and feasibility of providing to Medicaid
4-37 recipients who have been diagnosed with diabetes, including Type 1
4-38 diabetes, Type 2 diabetes, and gestational diabetes:

4-39 (1) diabetes self-management education and support
4-40 services that follow the National Standards for Diabetes
4-41 Self-Management Education and Support and that may be delivered by
4-42 a certified diabetes educator; and

4-43 (2) medical nutrition therapy services.

4-44 (c) If the commission determines that providing one or both
4-45 of the types of services described by Subsection (b) of this section
4-46 would improve health outcomes for Medicaid recipients and lower
4-47 Medicaid costs, the commission shall, notwithstanding Section
4-48 32.057, Human Resources Code, or Section 533.009, Government Code,
4-49 and to the extent allowed by federal law develop a program to
4-50 provide the benefits and seek prior approval from the Legislative
4-51 Budget Board before implementing the program.

4-52 SECTION 10. (a) In this section, "commission," "Medicaid,"
4-53 and "Medicaid managed care organization" have the meanings assigned
4-54 by Section 531.001, Government Code.

4-55 (b) As soon as practicable after the effective date of this
4-56 Act, the commission shall conduct a study to:

4-57 (1) identify benefits and services, other than
4-58 long-term services and supports, provided under Medicaid that are
4-59 not provided in this state under the Medicaid managed care model;
4-60 and

4-61 (2) evaluate the feasibility, cost-effectiveness, and
4-62 impact on Medicaid recipients of providing the benefits and
4-63 services identified under Subdivision (1) of this subsection
4-64 through the Medicaid managed care model.

4-65 (c) Not later than December 1, 2022, the commission shall
4-66 prepare and submit a report to the legislature that includes:

4-67 (1) a summary of the commission's evaluation under
4-68 Subsection (b)(2) of this section; and

4-69 (2) a recommendation as to whether the commission

5-1 should implement providing benefits and services identified under
5-2 Subsection (b)(1) of this section through the Medicaid managed care
5-3 model.

5-4 SECTION 11. (a) In this section:

5-5 (1) "Commission," "Medicaid," and "Medicaid managed
5-6 care organization" have the meanings assigned by Section 531.001,
5-7 Government Code.

5-8 (2) "Dually eligible individual" has the meaning
5-9 assigned by Section 531.0392, Government Code.

5-10 (b) The commission shall conduct a study regarding dually
5-11 eligible individuals who are enrolled in the Medicaid managed care
5-12 program. The study must include an evaluation of:

5-13 (1) Medicare cost-sharing requirements for those
5-14 individuals;

5-15 (2) the cost-effectiveness for a Medicaid managed care
5-16 organization to provide all Medicaid-eligible services not covered
5-17 under Medicare and require cost-sharing for those services; and

5-18 (3) the impact on dually eligible individuals and
5-19 Medicaid providers that would result from the implementation of
5-20 Subdivision (2) of this subsection.

5-21 (c) Not later than September 1, 2022, the commission shall
5-22 prepare and submit a report to the legislature that includes:

5-23 (1) a summary of the commission's findings from the
5-24 study conducted under Subsection (b) of this section; and

5-25 (2) a recommendation as to whether the commission
5-26 should implement Subsection (b)(2) of this section.

5-27 SECTION 12. Notwithstanding Section 2, Chapter 1117 (H.B.
5-28 3523), Acts of the 84th Legislature, Regular Session, 2015, Section
5-29 533.00251(c), Government Code, as amended by Section 2 of that Act,
5-30 takes effect September 1, 2023.

5-31 SECTION 13. As soon as practicable after the effective date
5-32 of this Act, the Health and Human Services Commission shall conduct
5-33 the study and make the determination required by Section
5-34 531.0501(a), Government Code, as added by this Act.

5-35 SECTION 14. If before implementing any provision of this
5-36 Act a state agency determines that a waiver or authorization from a
5-37 federal agency is necessary for implementation of that provision,
5-38 the agency affected by the provision shall request the waiver or
5-39 authorization and may delay implementing that provision until the
5-40 waiver or authorization is granted.

5-41 SECTION 15. The Health and Human Services Commission is
5-42 required to implement this Act only if the legislature appropriates
5-43 money specifically for that purpose. If the legislature does not
5-44 appropriate money specifically for that purpose, the commission
5-45 may, but is not required to, implement this Act using other
5-46 appropriations available for the purpose.

5-47 SECTION 16. This Act takes effect September 1, 2021.

5-48 * * * * *