

House Bill 3720
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) contact information for the individual or the individual's parent or other legally authorized representative;
- (2) the individual's general demographic information;

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- (5) the medically dependent children (MDCP) waiver program; and
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(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 advisory committee, and interested stakeholders, shall develop a questionnaire to be completed by or on behalf of an individual who requests to be placed on or is currently on an interest list for a waiver program.

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- (3) the individual's living arrangement;
- (4) the types of assistance the individual requires;
- (5) the individual's current caregiver supports and circumstances that may cause the individual to lose those supports; and
- (6) when the delivery of services under a waiver program should begin to ensure the individual's health and welfare and that the individual receives services and supports in the least restrictive setting possible.
- (d) Subject to the availability of funds, the commission shall require all individuals on an interest list to annually update the questionnaire developed under Subsection (b).
- (e) If the commission determines that it is feasible, the commission shall develop an online portal to allow an individual or an individual's parent or other legally authorized representative to:
 - (1) request placement on a waiver program interest list; and
 - (2) complete and update the questionnaire developed under Subsection (b).
- (f) If an individual is on a waiver program's interest list and the individual or the individual's parent or other legally authorized representative does not respond to a written or verbal request made by the commission to update information concerning the individual or otherwise fails to maintain contact with the commission, the commission:
 - (1) shall designate the individual's status on the interest list as inactive until the individual or the individual's parent or other legally authorized representative notifies the commission that the individual is still interested in receiving services under the waiver program; and
 - (2) at the time the individual or the individual's parent or other legally authorized representative provides notice to the

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- (4) the types of assistance the individual requires;
- (5) the individual's current caregiver supports and circumstances that may cause the individual to lose those supports; and
- (6) when the delivery of services under a waiver program should begin to ensure the individual's health and welfare and that the individual receives services and supports in the least restrictive setting possible.
- (d) [Deleted by FA1(1)]

- (e) [Deleted by FA1(1)]

- (f) If an individual is on a waiver program's interest list and the individual or the individual's parent or other legally authorized representative does not respond to a written or verbal request made by the commission to update information concerning the individual or otherwise fails to maintain contact with the commission, the commission:
 - (1) shall designate the individual's status on the interest list as inactive until the individual or the individual's parent or other legally authorized representative notifies the commission that the individual is still interested in receiving services under the waiver program; and
 - (2) at the time the individual or the individual's parent or other legally authorized representative provides notice to the

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commission under Subdivision (1), shall designate the individual's status on the interest list as active and restore the individual to the position on the list that corresponds with the date the individual was initially placed on the list.

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

(h) Not later than September 1 of each year, the commission shall provide to the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, or, if that advisory committee is abolished, an appropriate stakeholder advisory committee, as determined by the executive commissioner, the number of individuals, including individuals whose status is designated as inactive by the commission, who are on an interest list to receive services under a waiver program.

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

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

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commission under Subdivision (1), shall designate the individual's status on the interest list as active and restore the individual to the position on the list that corresponds with the date the individual was initially placed on the list.

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

(h) Not later than September 1 of each year, the commission shall provide to the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, or, if that advisory committee is abolished, an appropriate stakeholder advisory committee, as determined by the executive commissioner, the number of individuals, including individuals whose status is designated as inactive by the commission, who are on an interest list to receive services under a waiver program.

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

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

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

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

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

(A) is attributed to:

(i) cerebral palsy or epilepsy; or

(ii) any other condition, other than mental illness, found to be closely related to intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with intellectual disability, and requires treatment or services similar to those required for individuals with intellectual disability;

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

(C) is likely to continue indefinitely; and

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

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) capacity for independent living.

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

(b) To the extent allowed by federal law, an individual is financially eligible to participate in the Texas home living (TxHmL) waiver program if the individual's income is not

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No equivalent provision. SECTION 2. [Deleted by FA1(2)]

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more than the special income limit established by the commission for other Section 1915(c) waiver programs, including the home and community-based services (HCS) waiver program.

(c) To the extent permitted by federal law, the commission shall expand medical eligibility criteria under the Texas home living (TxHmL) waiver program to ensure that an individual is medically eligible to participate in the waiver program if the individual:

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

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

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

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

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

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

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

(1) develop the questionnaire required by Section 531.06011(b), Government Code, as added by this Act; [FA1(3)]

(2) [Deleted by FA1(4)]

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

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services.

SECTION 4. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

No equivalent provision.

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

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services.

SECTION 4. Same as House version.

SECTION __. The Health and Human Services Commission is required to implement a provision of this Act only if the legislature appropriates money to the commission specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement a provision of this Act using other appropriations that are available for that purpose. [FA1(5)]

SECTION 5. Same as House version.

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