**BILL ANALYSIS**

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| Senate Research Center | C.S.H.B. 44 |
| 88R30665 JG-F | By: Swanson et al. (Middleton) |
|  | Health & Human Services |
|  | 5/18/2023 |
|  | Committee Report (Substituted) |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current state law establishes the conditions under which a child may be exempt from established immunization schedules. The testimony of concerned citizens indicates that some providers who accept Medicaid or CHIP have refused to treat children and their family members based on immunization status, and the Austin Regional Clinic's vaccine policy states that it will not accept any new patients who are not vaccinated.

Despite the exemptions offered in current law, there is no statutory mechanism that prevents an individual from being denied health care services by taxpayer-funded programs on this basis. H.B. 44 seeks to address this issue by prohibiting a Medicaid or CHIP provider from refusing to provide health care services to an individual based solely on the individual's refusal or failure to obtain certain immunizations or vaccines.

H.B. 44 amends the Government Code to prohibit a Medicaid or CHIP provider from refusing to provide health care services to a Medicaid recipient or CHIP enrollee based solely on the recipient's or enrollee's refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease.

H.B. 44 prohibits the Health and Human Services Commission (HHSC) from providing Medicaid or CHIP reimbursement to a provider who violates that prohibition and requires HHSC to withhold reimbursement from the Medicaid or CHIP provider until the provider is in compliance with the bill's provisions.

The bill authorizes the executive commissioner of HHSC to adopt rules as necessary to implement these provisions and provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

C.S.H.B. 44 removes the provision that would require HHSC to disenroll providers found not in compliance with the bill. Instead, the substitute authorizes HHSC to withhold reimbursement until the individual provider is in compliance with the bill's provisions. The bill also exempts providers specializing in oncology and organ transplant care services from the bill's provisions.

C.S.H.B. 44 amends current law relating to provider discrimination against a Medicaid recipient or child health plan program enrollee based on immunization status.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 531.02119, Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02119, as follows:

Sec. 531.02119. DISCRIMINATION BASED ON IMMUNIZATION STATUS PROHIBITED. (a) Prohibits a provider who participates in Medicaid or the child health plan program, including a provider participating in the provider network of a managed care organization that contracts with the Health and Human Services Commission (HHSC) to provide services under Medicaid or the child health plan program, from refusing to provide health care services to a Medicaid recipient or child health plan program enrollee based solely on the recipient's or enrollee's refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease.

(b) Prohibits HHSC from providing any reimbursement under Medicaid or the child health plan program, as applicable, to a provider who violates this section unless and until HHSC finds that the provider is in compliance with this section.

(c) Provides that Subsection (b) applies only with respect to an individual physician. Prohibits HHSC from refusing to provide reimbursement to a provider who did not violate this section based on that provider's membership in a provider group or medical organization with an individual physician who violated this section.

(d) Provides that this section does not apply to a provider who is a specialist in oncology or organ transplant services.

(e) Authorizes the executive commissioner of HHSC to adopt rules as necessary to implement this section.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: September 1, 2023.