

## **BILL ANALYSIS**

C.S.H.B. 1798  
By: Howard  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to a February 2023 report by the Health and Human Services Commission (HHSC), the workforce of community attendants in Texas is projected to increase by 37 percent in the next decade, in part due to the rapidly growing population of adults as well as due to an increase in people who want to remain in community-based settings. To remain competitive with other industries and ensure a stable workforce, the state must develop a plan to improve rate payments and ensure enrollees have adequate access to care. HHSC has testified that no rate methodology currently exists for home health workers. Without a comprehensive plan for rate adjustments, enrollees in various state programs are forced to compete for services. A long-term holistic examination of future demand is critical.

C.S.H.B. 1798 seeks to direct HHSC to develop a strategic plan that would establish a rate methodology for home and community-based services, evaluate unmet needs of program enrollees, and create access to care standards for service delivery. The bill also seeks to create an advisory committee to advise HHSC on developing a long-term payment methodology and sustainable options to support home and community-based services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1798 amends the Government Code to require the Health and Human Services Commission (HHSC) to develop and implement a strategic plan to ensure that Medicaid recipients and CHIP enrollees in Texas have access to home and community-based services provided by a home and community support services agency. For this purpose, the bill defines "home and community-based services" as person-centered care that addresses the needs of an individual with functional limitations who needs assistance with daily living, is delivered to the individual in the individual's home or community, and enables the individual to remain in the individual's home or community, including:

- acute care and long-term services and supports;
- services and supports for an individual's physical, emotional, mental, social, and vocational needs; and
- any other services necessary to enable an individual to remain in the individual's home or community.

The bill defines "home and community support services agency" as a person who holds a home and community support services license and who provides for pay or other consideration home health, hospice, or personal assistance services in a client's residence, an independent living environment, or another appropriate location.

C.S.H.B. 1798 requires the strategic plan to include the following:

- a proposal for developing a viable rate methodology for each home and community-based service provided by a home and community support services agency that will ensure access to the service;
- an assessment of the unmet needs for home and community-based services of Medicaid recipients and CHIP enrollees;
- access to care standards for services provided by a home and community support services agency specific to each home and community-based services program under Medicaid and CHIP, which may include standards based on the following:
  - the amount of delivered units of service as a percentage of authorized units of service;
  - the number of in-network home and community support services agencies;
  - the types of services provided;
  - the geographic areas served;
  - vacancy rates; and
  - the capacity to provide services;
- an assessment of the potential costs, including costs to the state, associated with the lack of adequate access to home and community-based services in Texas, including an analysis of the following:
  - any projected long-term savings from providing timely access to home and community-based services;
  - the costs associated with providing services in an institutional or hospital setting, as compared to providing services in a home or community-based setting; and
  - the potential immediate and long-term costs associated with a lack of access to services in a timely manner; and
- set dates for achieving the goals identified in the strategic plan.

The bill, in temporary provisions set to expire September 1, 2025, requires HHSC to submit the strategic plan to the Legislative Budget Board (LBB) for approval not later than January 1, 2024, and requires the LBB to review and provide HHSC with comments on the plan before determining whether to approve it.

C.S.H.B. 1798 prohibits HHSC from implementing the strategic plan until the LBB approves it. The bill requires HHSC, not later than November 1 of each even-numbered year, to submit a report on the development and implementation of the strategic plan to the legislature, the governor, and the LBB.

C.S.H.B. 1798 requires HHSC to establish the home and community-based services advisory committee as an advisory committee or a subcommittee of the medical care advisory committee. The bill requires this new advisory committee to do the following:

- advise HHSC on developing a viable long-term payment methodology for services provided by home and community support services agencies and on addressing issues relating to home and community-based services;
- develop a sustainable strategy to support home and community-based services;
- make recommendations for cost savings in program areas, including program integrity, reductions in hospitalizations, prior authorization of services, and care coordination efforts; and
- review and offer comments on the strategic plan.

C.S.H.B. 1798 establishes that this advisory committee is composed of the following members appointed by the executive commissioner of HHSC:

- one member who is an ex officio nonvoting representative of HHSC; and

- an odd number, not to exceed 15, of voting members who are, as follows:
  - a representative of:
    - at least one association representing managed care organizations;
    - at least one association representing home and community support services agencies;
    - at least two associations or coalitions representing Medicaid recipients who receive home and community-based services in Texas;
    - at least one rural home and community support services agency providing services to Medicaid recipients who receive home and community-based services;
    - at least one statewide home and community support services agency providing services to Medicaid recipients who receive home and community-based services; and
    - another discipline involving expertise in financing Medicaid home and community-based services;
  - at least one person who is the parent of and caregiver to a child who receives such services as a Medicaid or CHIP enrollee;
  - at least one person who is a recipient of home and community-based services under Medicaid;
  - at least one person who provides financial management services; and
  - at least one person who provides electronic visit verification services.

The bill establishes that the members serve without compensation. The advisory committee is abolished and the bill's provisions relating to the advisory committee expire September 1, 2027.

### **EFFECTIVE DATE**

September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 1798 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the definition of "home and community-based services" as follows:

- omits the definition that was present in the introduced, which was personal attendant services, community attendant services, primary home care, private duty nursing services, in-home respite services, and home therapy services; and
- defines the term instead as person-centered care that addresses the needs of an individual with functional limitations who needs assistance with daily living, is delivered to the individual in the individual's home or community, and enables the individual to remain in the individual's home or community, including:
  - acute care and long-term services and supports;
  - services and supports for an individual's physical, emotional, mental, social, and vocational needs; and
  - any other services necessary to enable an individual to remain in the individual's home or community.

The substitute revises the provision in the introduced requiring HHSC to develop the strategic plan by omitting the reference to adequacy with respect to the access to services. Regarding the contents of the strategic plan, the substitute revises the provisions of the introduced as follows:

- with respect to the requirement for the plan to include a proposal for developing a rate methodology for each home and community-based service that will ensure adequate access to the service:
  - omits the reference to adequacy; and

- includes specifications not in the introduced that the rate methodology must be viable and that the service be provided by a home and community support services agency;
- with respect to the requirement for the plan to include access to care standards, includes a specification not in the introduced that the standards are for services provided by a home and community support services agency; and
- includes a requirement not in the introduced for the plan to include an assessment of the potential costs associated with the lack of adequate access to home and community-based services in Texas.

The substitute revises the provisions of the introduced regarding the membership of the advisory committee as follows:

- omits the requirement for the advisory committee to include representatives of at least one Medicaid managed care organization;
- omits the requirement for the advisory committee to include representatives of at least one urban home and community support services agency providing services to Medicaid recipients;
- regarding the requirement for the advisory committee to include representatives of at least one association representing Medicaid recipients in Texas:
  - gives the option for members to be appointed as representatives of coalitions representing Medicaid recipients as an alternative to such associations;
  - increases from one, as in the introduced, to two the number of associations or, as in the substitute, coalitions who must be represented; and
  - specifies that the Medicaid recipients who the associations or coalitions must represent are those who receive home and community-based services in Texas;
- regarding the requirements for the advisory committee to include representatives of at least one rural home and community support services agency providing services to Medicaid recipients and at least one statewide home and community support services agency providing such services, specifies that the recipients must be those who receive home and community-based services;
- requires the advisory committee to include at least one person who is a parent of a caregiver to a child who receives home and community-based services as a Medicaid recipient or CHIP enrollee, whereas the introduced did not; and
- requires the advisory committee to include at least one person who is a recipient of home and community-based services under Medicaid, whereas the introduced did not.

The substitute includes a provision absent from the introduced establishing that the advisory committee is abolished and the bill's provisions relating to the advisory committee expire September 1, 2027.