

## **BILL ANALYSIS**

C.S.H.B. 2401  
By: Oliverson  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

When the state moved from a fee-for-service model to the managed care model in the late 1990s, provisions were added to state law that required the Health and Human Services Commission (HHSC) to award contracts to certain managed care organizations (MCOs) owned by public hospitals. On May 13, 1997, then Representative Hugo Berlanga laid out H.B. 2913, which created Chapter 533 of the Government Code. During the ensuing debate he conveyed to House members that the state would be required to contract with a hospital district as one of the providers of managed care because, "it was important to protect the public health infrastructure." As evidenced by the current General Appropriations Act for 2022-2023 and other critical sources like the 13th edition of the Texas Medicaid and CHIP Reference Guide, HHSC spends tens of billions of dollars annually on Medicaid managed care. Additionally, according to Medicare Cost Reports, which is a comprehensive report of all revenue sources for hospitals, the state and federal government spent more on an annual basis for Texas public hospitals than these same hospitals generate in total patient revenue.

In January of 2023, HHSC announced Medicaid contract awards for the state's multibillion dollar STAR+PLUS program, which cares for Texans who are aged or blind or who have a disability. As currently depicted on the Texas Health and Human Services website, the public hospital districts who receive mandatory contracts were the lowest scoring health plans. Mandatory contract law has the unintended effect that no matter how poorly the plans perform, HHSC must continue to provide contracts to low-performers. C.S.H.B. 2401 seeks to repeal the mandatory contract law and allow HHSC to ensure that health care plans have the expertise and resources to fully serve the vulnerable populations in the Medicaid program.

### **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. 2401 repeals Government Code provisions requiring the Health and Human Services Commission (HHSC) to do the following:

- in providing health care services through Medicaid managed care to recipients in a health care service region, contract with a managed care organization (MCO) in that region that is licensed as a health maintenance organization (HMO) to provide health care in that region and that is wholly owned and operated by a hospital district in the region or

created by a nonprofit corporation that has a qualifying contract, agreement, or other arrangement with a hospital district or municipality;

- make the awarding and renewal of a mandatory contract to an MCO affiliated with a hospital district or municipality contingent on the district or municipality entering into a matching funds agreement to expand Medicaid for children; and
- in providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program, as defined by HHSC as of September 1, 1999, also contract with an MCO in that region that holds a certificate of authority as an HMO and that, as follows:
  - is certified by the Texas Medical Board;
  - is created by The University of Texas Medical Branch at Galveston; and
  - has obtained a certificate of authority as a health maintenance organization to serve one or more counties in that region from the Texas Department of Insurance before September 2, 1999.

C.S.H.B. 2401 amends the Government Code to make conforming changes.

C.S.H.B. 2401 applies only to a contract awarded by HHSC that is fully executed and has not reached its operational start date on or after the bill's effective date. The bill 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. 2401 repeals Section 533.004, Government Code.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

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

While C.S.H.B. 2401 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 retains the procedural provision from the introduced establishing that the bill's changes apply only to contracts by HHSC that are fully executed on or after the bill's effective date but further revises the provision to include the additional specification that the contract must also have not reached its operational start date on or after the bill's effective date.