

## **BILL ANALYSIS**

Senate Research Center  
88R8485 BDP-F

H.B. 2802  
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Health & Human Services  
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Engrossed

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

In the 85th Legislature, H.B. 2466 required the Health and Human Services Commission (HHSC) to amend the Medicaid application to allow Medicaid applicants to indicate their preferred contact methods. In the 87th Legislature, S.B. 1911 required HHSC to add language to Medicaid applications to inform applicants of privacy and security risks associated with email and text messages and their consent to the use of these methods.

There are concerns that the option to opt-in to texting and email on the eligibility application has become confusing. Medicaid members can easily overlook or misunderstand instructions when filling out preferred contact preferences.

Further, recent Federal Communications Commission (FCC) guidance allow managed care organizations to call or text their members regarding their eligibility or enrollment if they include their phone number on any application for health insurance without obtaining additional consent. There are concerns that the state's Medicaid application does not allow this flexibility.

It has been found that cell phones are the most common form of communication device, and text messages are widely used and accepted. Text messaging can effectively enhance existing communication with Medicaid families and improve the delivery of the state's critical safety net programs.

H.B. 2802 / S.B. 1127 aligns state law with recent FCC guidance, making it easier for Medicaid members to receive critical information about their enrollment or eligibility renewal. H.B. 2802 / S.B. 1127 also informs members on the eligibility application that they can opt out of texts and emails about important health information.

H.B. 2802 amends current law relating to the Medicaid application form and communication with Medicaid recipients.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 533.008, Government Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt and publish guidelines for Medicaid managed care organizations regarding how organizations are authorized to communicate by telephone, text message, or e-mail with recipients enrolled in the organization's managed care plan using the contact information provided in a recipient's application for Medicaid benefits under Section 32.025(g)(2), Human Resources Code, including updated information provided to the organization in accordance with a certain section.

(d) Provides that the Health and Human Services Commission (HHSC), in adopting the guidelines under Subsection (c) for a recipient enrolled in a Medicaid managed care organization's managed care plan who provides to the organization the recipient's contact information through any method other than the recipient's Medicaid application:

(1) is required to allow the organization to communicate with the recipient through any electronic means, including telephone, text message, and e-mail, regarding eligibility, enrollment, and other health care matters; and

(2) is prohibited from requiring the organization to submit the recipient's contact preference information to HHSC.

SECTION 2. Amends Section 32.025(g), Human Resources Code, as follows:

(g) Requires that the application form, including a renewal form, adopted under Section 32.025 (Application for Medical Assistance) include:

(1) makes no change to this subdivision;

(2) for all applicants, a question regarding the applicant's preferences for being contacted by a managed care organization or health plan provider by telephone, text message, or e-mail about eligibility, enrollment, and other health care matters, including reminders for appointments and information about immunizations or well check visits; and

(3) language that notifies the applicant that the applicant is authorized to opt out of being contacted by telephone, text message, or e-mail by notifying the applicant's managed care organization or health plan provider.

Deletes existing text requiring that the application form, including a renewal form, adopted under this section include for all applicants a question regarding the applicant's preferences for being contacted by a managed care organization or health plan provider that provides the applicant with the option to be contacted by telephone, text message, or e-mail about health care matters, including reminders for appointments and information about immunizations or well check visits and language that allows the applicant to consent to being contacted through the preferred contact methods by the applicant's managed care organization or health plan provider.

SECTION 3. Requires the executive commissioner, not later than January 1, 2024, to adopt revised communication guidelines for Medicaid managed care organizations that conform to the requirements of Section 533.008, Government Code, as amended by this Act, and a revised application form for medical assistance benefits that conforms to the requirements of Section 32.025(g), Human Resources Code, as amended by this Act.

SECTION 4. Requires a state agency, if necessary for the implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 5. Effective date: September 1, 2023.